

Probation and Parole Training Series

Pre-Sentence Report Guide



**Ministry of
Correctional
Services**

HUMAN RESOURCES MANAGEMENT

**Staff Training and
Development**

INTRODUCTION

The Community Programmes Support Services Branch has prepared the Pre-sentence Report Guide both as a training aide for new officers who are learning to put pre-sentence reports together for the first time, as well as a reference for more seasoned officers who wish or seek new ideas in their own PSR preparation.

When this work was originally conceived, it was thought that in its final form it would be a short practical "how to" guide. However in researching PSRs it became apparent that for the correctional specialist to operate effectively as a writer, he or she must not only develop the technical skill and knowledge around interviewing, assessing and writing, but must be able to integrate this technical base with a broader understanding of the PSRs context within the criminal justice system.

As a result, the reader will find that the present volume goes beyond its original "how to" parameters. Topics included within this larger scope include items on interviewing, the nature of judicial decision-making and sentencing, and the factors which affect such sentencing. Also included is a possible model for finding an appropriate recommendation, which hopefully will assist the new officer in this often tough phase of report-writing.

The guide also addresses the topic of writing in general, and attempts to apply the more important principles of report-writing to the specific task of the PSR writer. Workload and time pressures have often made it difficult for an officer, who has developed a habitual style in report-writing to experiment with more creativity in writing. Although many of the hints and ideas presented in these latter sections on writing are common-sense and obvious, they may nonetheless be helpful in stimulating the writer to reflect on his or her style, and to perhaps seek out and try more creative and possibly more persuasive ways of presenting their cases to the court.

As with its companion guide on probation enforcement, the guide seeks only to offer hints and ideas. Some may be found to be useful and practical, while others may not. The goal is to choose what works and makes sense for each individual writer.

As the guide is a training aide, it is included in the basic training syllabus for new officers. There are a number of discussion questions and exercises included in the guide which trainees are encouraged to consider as a supplement to the normal on-the-job training in PSR writing provided in their offices.

ACKNOWLEDGEMENTS

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Carl Aspler
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I. HISTORY AND ORIGINS

For a long while punishments centered mainly on the crime or the damage caused. Sometimes certain circumstances related to the offender were considered, although they tended to relate more to the offender's station in life or social class. A nobleman being tried for deliberately trampling on a peasant during a fox hunt was likely to be dealt a somewhat less drastic penalty than a peasant who, in a moment of anger, was unfortunate enough to accidentally impale his lord with a pitchfork. It was not until the last century that the justice process began a new trend toward the rehabilitative notion that fitting the punishment to the crime should also take into account the "person behind the crime". Knowing the offender and understanding him became important, and even today, as we are witnessing a revival of some of the older concepts such as restitution and compensation, we still try to gain some kind of knowledge of the person to see if that particular course of action is appropriate. This meant that some form of inquiry had to be undertaken and reported on. Slowly and unsteadily the curtain was beginning to rise for the social inquiry report.

In North America it was John Augustus who first offered his services to the court to supervise and guide those who found themselves in trouble with the law. Augustus did not extend his efforts to all. He assumed no responsibility

"without due investigation into the merits of their cases and the scrupulous examination into the history and character of each individual".

To ascertain whether the candidates were suitable for supervision:

"it was necessary to take into consideration the previous character of the person, his age and the influences by which he would in future be likely to be surrounded..."¹

¹ John Augustus, A Report of the Labors of John Augustus, For The Last Ten Years in Aid of the Unfortunate (1832), reprinted in John Augustus, The First Probation Officer (New York: National Probation Association, 1939).

Despite the early echoes of Augustus and others on the rehabilitative frontier, the idea of matching judicial outcomes to individual offenders through some kind of organized investigation was not an idea that instantly imposed a grip on the justice process. It was not until 1889 that the possibility of considering the offenders "youth, character and antecedents" became written into Canadian law.¹ This investigation was in the form of submissions from defence counsel and Crown prosecutor and was meant to fulfil the lawmaker's desire to see certain offenders released conditionally, in lieu of a more serious punishment.²

Almost 30 years later, in 1922, the Ontario Probation Act became law. This Act allowed for an inquiry into an offender's background and situation. Such pre-sentence inquiries were to be conducted by "probation officers" and for the first time in Canada the usefulness of probation officers as objective gatherers of information was recognized.

Although the Archambault report of 1938 reiterated the importance of Pre-Sentence reports, the curtain rising on the P.S.R. was stuck. It was not until there was significant development and acceptance of the probation service in the 1950's that pre-sentence reports have been used to any great extent. The Fauteux report of 1956 urged further support for the use of P.S.R.'s and suggested instances where P.S.R.'s would be appropriate, such as in the case of youthful offenders and those facing significant terms of imprisonment.³ Even whipping, a dubious bedfellow of the rehabilitative ideal, found itself connected to the idea of ensuring that punishment "fit the person". In its series of recommendations the Fauteux report also concluded that "no sentence involving corporal punishment should be imposed . . . without prior consultation of the Pre-Sentence report . . .".⁴

¹Carl Dombek and Murray Chitra, "The Pre-Sentence Report: An Update", The Criminal Law Quarterly, Vol. 23, No. 2 (March, 1981) pp.216 - 238

²Dombek and Chitra, p. 219

³George G. McFarlane, The Development of Probation Service in Ontario, (Toronto: Department of the Attorney General, Queen's Printer, 1966), pp. 39-44.

⁴McFarlane, pp. 39-44.

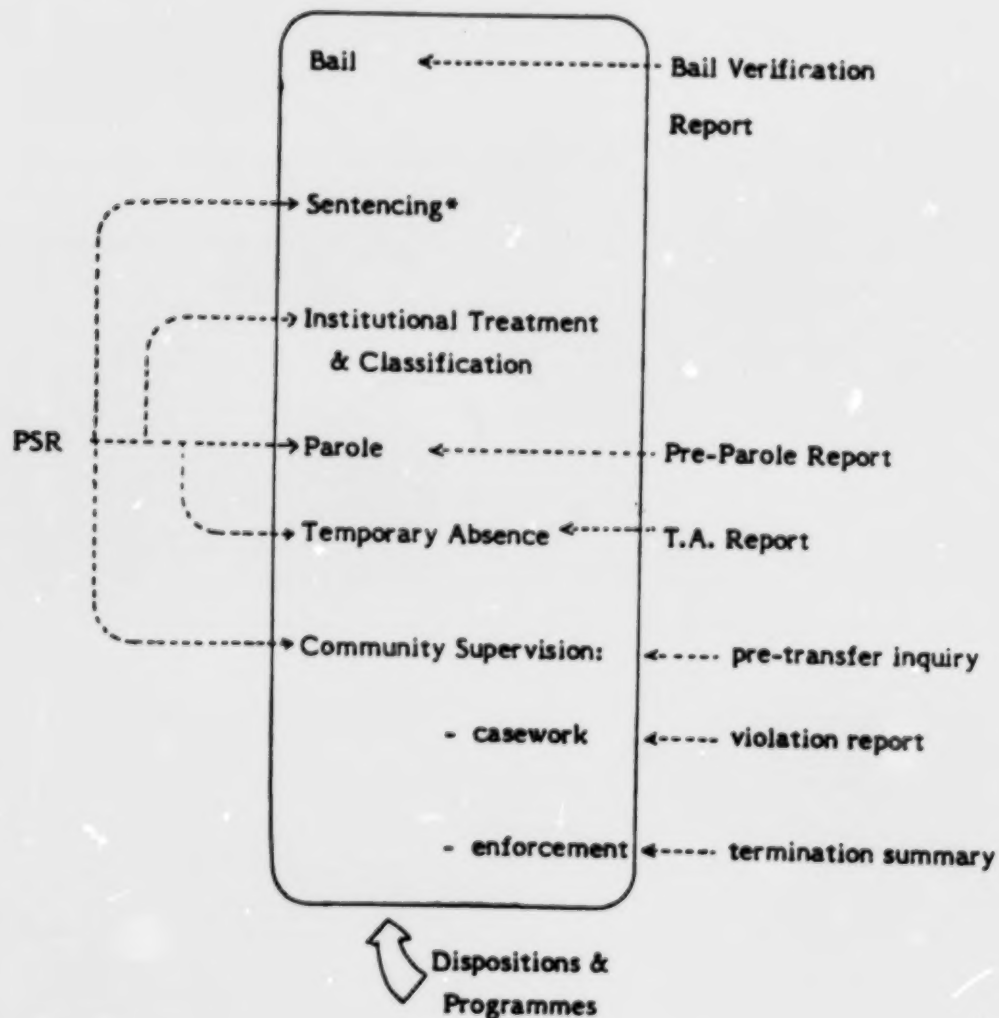
As the probation service grew, investigative reports began to increase both in numbers and importance. By 1962 when the Ontario Magistrates Report on sentencing was issued,¹ the probation officer was already quite well acquainted with the P.S.R. In addition to the use of reports at the court level, demands for other types of investigative reports grew as new correctional programmes were being developed. At present, report writing within the Probation and Parole Service is quite pervasive, and accounts for a considerable portion of the P.O.'s time and energy. In numbers alone, the Probation and Parole Service has witnessed an increase in the output of P.S.R.'s from 3,900 in 1956 to just over 15,000 in 1979.

Though it would seem the mists of time would date John Augustus' remarks of 1852, the basic message still makes sense. Even if the emphasis on rehabilitation becomes less popular, justice in corrections is and will remain a human process. Courts and programmes will continue to rely on the provision of better and more complete information on its clients. This will hopefully make for better and more complete treatment at the hands of the criminal justice system.

¹ This report urged a more widespread use of P.S.R.'s by Magistrates.

REPORTS IN COMMUNITY PROGRAMS

There are many different routes through the correctional system and the key to effective client management and supervision is the ability to decide which particular programming route the client would be best suited. Not only is the pre-sentence report useful at the sentencing stage, but, along with other investigative reports, it serves to guide the orderly rational processing of offenders through the correctional system. Some of the key decision points can be outlined as follows:



* The post-sentence report is occasionally prepared for appeal court cases. In such instances the offender has been tried and sentenced, and the disposition is being reviewed by an appeal court.

CHALLENGES FOR THE WRITER

The Ministry of Corrections hosts a wide variety of reports - PSRs, PTIs, TAPs and PB6s.¹ Each one has its specific purpose and place within the correctional system. Depending on what decisions have to be made, different aspects and topics are examined and emphasized. The ubiquitous PSR is a major example. As it follows its subject through the correctional maze, it is scrutinized by a range of people, each one interpreting the data relative to what they feel is important for this or that decision. Although the investigative reporter attempts, as much as possible, to predict (or aid in the prediction of) outcomes and behaviour, the ability to do so is tangled in a confusing batch of theories: theories on behaviour, theories on crime, theories on sentencing. Not only are we sometimes uncertain about what aspects of a client's functioning and environment are important for a particular decision, but even in the case of well researched and discussed areas such as sentencing or release on parole, we don't have any adequate measures of predicting what disposition would be the best. Given the fact that concepts such as "justice" and "social stability" may forever elude measurement by formula or statistical analysis, the P.O. will be constantly tested by the challenge of converting information into a useful assessment and prognosis.² In trying to answer the question "what are the possibilities for this person?" the P.O. must take a limited amount of information, mix it up with his understanding of human nature and come up with a story that will imply further steps for the correctional client. Because the job is basically a "people" one, there can only be so much reliance on statistics and equations to form accurate predictions about human behaviour or risk. For assessments to reflect the "people-ness" of its subjects, the P.O. must be able to integrate the hard data with more amorphous information on attitudes, motivation and personality. One professor of criminal justice describes the situation thus:

¹PB6's are "Pre-Parole Reports"

²Brian Harris, "Recommendations in Social Inquiry Reports," Criminal Law Review, Feb. 1979, p.80.

"in the analytic fashion, the officer must resolve the dilemmas of prediction by integrating the 'actuarial' probabilities with the unique potentials of each offender. For example, he is responsible for knowing that it would be foolish to overlook the arrest record of a felon who has successfully spent his recent life by burglarizing residences: and he must attempt to strike a balance with the burglar's express desire to change his criminal lifestyle, evaluate the probable impact of a supportive family, etc., in recommending probation versus incarceration."¹

Therefore, in order to be sensitive in his work, the reporter must acknowledge (or at least be minimally aware) that the criminal justice system is like a buffet lunch in which different theoretical approaches to crime and its treatment are available for tasting. What the report writer chooses to put on his plate may not correspond with what the judge decides to put on his. While P.O.s may stress an individualized approach to sentencing, a judge may place the emphasis on some sort of a tariff measure. How a report recipient responds to the content may depend upon his particular training, values and preferred ideological approach.² Despite these differences many judges and other decision makers regard the pre-sentence report as a definite aide. In the words of one enthusiastic supporter:

"the court, in some instances fails in its duty if it refuses to accept the PSR. It then usurps the function of the skilled probation officer and could be delinquent in not accepting the service of this specialist."³

Even among those who do not share the same positive zeal there are those who admit that, even those reports which are poor in quality

¹Robert B. Mills, Offender Assessment; A Casebook in Corrections, (Cincinnati: Anderson Publishing Company, 1980) p.4

²John Hogarth, Sentencing as a Human Process, (Toronto: University of Toronto Press, 1971), pp. 138-146. This work provides a good analysis of the various attitudes towards crime and punishment in judges, police, lawyers, probation officers and law students.

³E. Kenrick, "Role of the Adult Court in Corrections", Canadian Journal of Corrections, 10, (1965), pp. 152-178

"... sit at the back of the judge's mind, and because the reporter is an objective third party, the judge relies heavily on him"¹

For the report writer to provide effective service, he has to be aware of the perspectives of the various clients he services. His role as a reporter must be objective and credible. Although in a strict sense, the report is a medium of communicating information about the client, it also communicates a great deal about ourselves - who we are and what we do. It tells the reader what expertise we can offer and how well we know and use community resources. Most importantly, it relates how well we have integrated our knowledge towards a holistic understanding of the offender.² Unlike some of the other specialized report writers, the P.O. has to go to many sources in order to deal with all parts of the picture, while at the same time attempting to reconcile the twin roles of legal agent and social helper. What is more, he has to be able to communicate and deal with a wide range of people; from the technical jargon of the psychiatrist to the street slang of an illiterate.

An added challenge is found in the need to keep abreast of the new developments in correctional programmes. These developments are forcing the correctional worker to take a more wide-angle approach to the correctional scene. For a long time, the Probation Officer's main concern was centred around the offender's personality and one-to-one casework. However, the report writer is now beginning to find that there is more to consider. Suitability for bail, victim-offender reconciliation, restitution, and community service brokerage make it necessary to expand the field of vision, hence adding new dimensions to the business of data collection and interpretation.

¹ Morris Manning; "Sentencing Laws: A Practitioner's view", New Directions in Sentencing, by B. Grosman, (Toronto, Butterworth & Co., 1980), p. 282.

² Paul Keve, "The Professional Character of the Presentence Report," in Probation and Parole: Selected Readings, eds. R. Carter and L. Wilkins, (Toronto: John Wiley, 1970), pp.81-89

THE TASK & CHALLENGES OF THE REPORT WRITER

Probation Officer's

- understanding of human behaviour
- theoretical approach
- investigative skills
- motivation

New Directions
in Corrections

Purpose of Report
"What does it seek
to accomplish?"

Sources of Information

- Objective facts
- subjective motives,
biases, attitudes

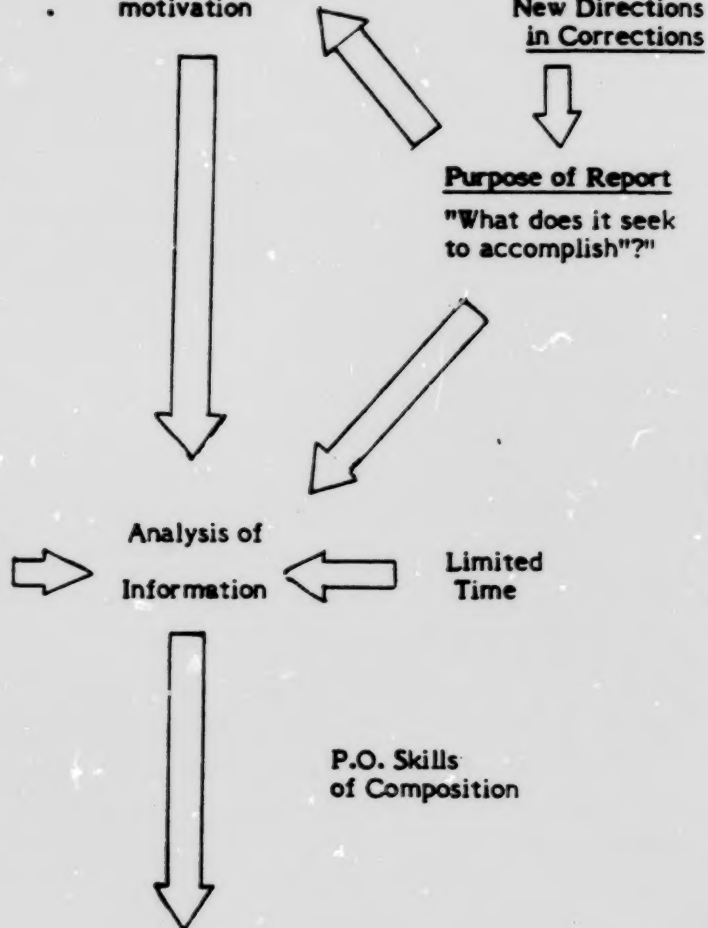
Analysis of
Information

Limited
Time

P.O. Skills
of Composition

REPORT

- objective assessment
- behavioural predictions



II. AIMS, PRINCIPLES & PURPOSES

Legal Authority For The P.S.R.

The authority for the preparation of pre-sentence reports is provided in legislation as follows:

1. Criminal Code of Canada, sec. 662(1):

662(1) "where an accused, other than a corporation, pleads guilty to or is found guilty of an offence, a probation officer shall, if required to do so by a court, prepare and file with the court a report in writing relating to the accused for the purpose of assisting the court in imposing sentence or in determining whether the accused should be discharged pursuant to section 662.1".

2. Provincial Offences Act, section 57:

57(1) "where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence."

3. Ministry of Correctional Services Act, section 43(1).

43(1) It is the duty of a probation officer,

- (a) to procure and report to a court such information pertaining to a person found to have committed an offence as the court may require for the purpose of making a disposition of the case;
- (b) to make recommendations in the report referred to in clause (a) as to the disposition of the case upon being requested by the court;

All of this legislation pertains to the preparation of a report prior to sentence. There is no legal authority for the preparation of a report prior to conviction, and technically since a person whose case is being reviewed by an appeal court has already been sentenced, it would appear that the Code does not allow for the preparation of PSRs for the courts of appeal.¹ Dombek and Chitra in discussing this, recommend that any such report be called a "post-sentence report" and the authority to order such a report must be found in the appellate court rules.²

¹Dombek and Chitra discuss the possibility of reports being prepared prior to conviction with the concurrence of both crown and defence. They point out that there "is no legal foundation for this kind of exercise, and it is submitted that it was not the intention of the legislators that such reports be prepared." pp. 223-224

²Dombek and Chitra, p.225

Purpose

The underlying purpose of the PSR is to assist the court in arriving at an appropriate disposition. Also, "it may, after disposition, be used to help authorized related agencies and persons to appropriately classify, assist and treat the offender".¹

General Ministry Policies*

1. The PSR is part of the trial process. Its contents are subject to cross-examination and must be capable of strict legal proof.
2. It is prepared for the court and not on behalf of either the prosecution or defence.
3. The guilt of the accused and the evidence relating to the offence are matters that do not lie within the scope of a PSR.
4. Psychiatric, medical and other professional information is privileged and must not be quoted without the offender's signed consent, and the consent of the source of information.
5. Offence and Court details leading to previous supervision of the offender as a juvenile should not be referred to unless specifically requested by the Court. Mention of the offender's behaviour while a supervised juvenile is permissible.
6. Details of any previous record may be included.
7. Mention of circumstances directly surrounding the commission of the present offence is included only where required as local policy, and must be concise and entirely factual.
8. Reference should be made to circumstances of a response to any current or prior (adult) community supervision.
9. No reference may be made to pending charges or mere suspicion of criminal involvement in other matters.
10. Recommending dispositions other than probation are not within the purview of the P.O., and are not to be referred to unless specifically requested by the Court.
11. The P.O. may at no time comment to the offender on the likely disposition of the Court.

In the sections which follow, some of these policies will be discussed in further detail, with reference to the practical issues of PSR preparation.

¹See Probation & Parole Manual p.3:1.

*See Probation & Parole Manual

A PREVIEW OF PRINCIPLES

Before heading into the practical considerations of report-writing it may be helpful at this point to preview a number of principles and standards which would be of assistance in guiding the report-writer in his work. By introducing these standards at this point it is hoped that they would be more easily incorporated into the repertoire of the report writer. It also serves a kind of check-list which the reporter can refer back to as a method of reviewing his finished product for "quality control."

I Accuracy

Is the information accurate?

Has the data been accepted at its face value or has it, where possible, been verified?

Since so much of the PSR is a blend of hard facts, inferences and observations, care should be taken to weigh, appraise and review the information.

II Confidentiality

This principle is basic if the report writer is to maintain a professional and trustworthy rapport with offenders and others who assist in the preparation of the report.

III Objectivity

The PSR is seen as one of the only objective sources of information in the sentencing process. As investigators, we must always be aware that not only the feelings and attitudes of the interviewees affect the information we receive but that our own feelings and attitudes can deter our objective judgement.

IV Clarity

Fancy language may be impressive, but sometimes it diminishes the report's effectiveness in communication. A good report is one that opts for clear understandable language. For many people what goes on in court is difficult to understand, so why should we add to the confusion?

V Brevity

A good report is one that can say what is important and no more. It would follow therefore that a well composed report is one which has screened out what information may be nice to know, or not needed at all, from that which the recipient needs to know. Long-winded reports may give you the feeling that you have accomplished a major literary work, but it can also distract the reader from the key points. Information provided should be purposeful.

VI Evaluative

Does the report meet its objective? Does it give the reader a diagnostic picture of the situation that will help him in his decision? One of the characteristics of a good report is its ability to express some insightful conclusions or recommendations based on the information received.

VII Originality

Each report should be an original document tailor-made for the subject of the P.S.R. It should avoid clichés and routine report-writing.

CHARACTERISTICS OF A GOOD REPORT WRITER¹

A good writer

1. Can analyze a problem; can discover pertinent issues and define them; knows where to look for relevant evidence.
2. Has energy and curiosity to dig out the information.
3. Has good judgement; can evaluate sources and evidence, distinguish the relevant from the irrelevant.
4. Is objective. A good writer can keep prejudices and preconceptions under control.
5. Is able to understand the readers' point of view.
6. Can economize with words. Knows how to condense and summarize.
7. Strives for accuracy; checks and rechecks when in doubt; says what he or she means.

¹ adapted from Harold Graves and Lyne S. Hoffman, Report Writing, (Prentice-Hall, 1965).

THREE PHASES OF REPORT PREPARATION

There are three phases to the report preparation:

1. **DATA COLLECTION:** The search for information and data.
2. **ANALYSIS & INTERPRETATION:** Ascribing meaning to the data. This is an analytical process in which the writer draws conclusions and interpretations from the collected material.
3. **COMPOSITION:** Constructing the report in a way which effectively communicates the relevant data to the report's recipient.

The guide will examine each of these areas of report preparation separately and in turn. However in reality, these three processes are not exclusive of one another. The P.O. does not always wait until all the information is in before he begins to analyze his material and formulate some conclusions. More often than not, the investigator is constantly engaged in making connections between the facts and feelings as they come in, and as he proceeds with his work, is able to slowly develop a portrait of the offender.

Topics To Consider

The guide organizes its discussion around a number of key areas of functioning, such as employment, the offence, family background, and so on. Here too, one should be wary not to think that each of the particular areas form separate and distinct targets of analysis during the investigation. What is important is that the ground covered; that all the important information has been sifted and screened. It is irrelevant that the information was picked up in bits and pieces from different people.

In terms of content, the guide will consider the following topics:

1. Present Offence and Previous Record.
2. Family/Personal Background.
3. Education/Employment.
4. Leisure Activities.
5. Emotional/Physical Health & Personality.
6. Alcohol & Drugs .

7. Plans.
8. Finances.

Once these areas have been covered, separate chapters will be devoted to formulating an assessment and recommendations, as well as a final section devoted to "putting it all together".

It should be noted that the topics listed above do not necessarily comprise the content headings for P.S.R.s. The guide's intent is merely to break down the inquiry into discrete areas (alcohol/drugs, offence, etc.) in order to more clearly isolate the relevant issues and factors of personal coping. Once the ground has been covered in this manner, the offices can arrange and recombine the information under the larger headings of the P.S.R. The headings currently sanctioned by the Ministry follow the format developed in Windsor in 1978 (Form No. 915). In summary fashion, these include:

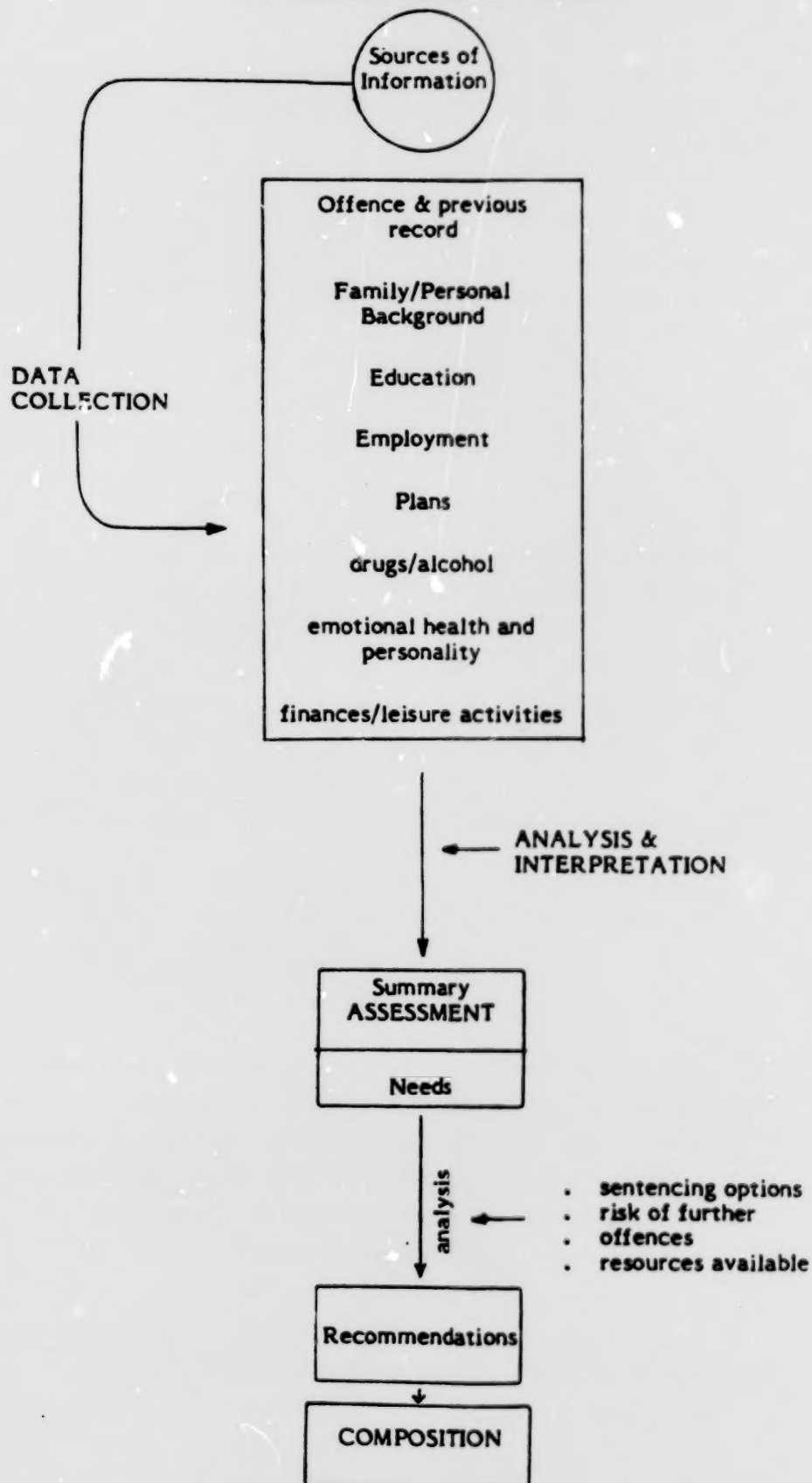
- | | |
|---------------------------|---|
| 1. Particulars of Offence | - description of offence |
| 2. Offender's background | - family history, structure
- home and neighbourhood
- home environment
- marital history |
| 3. Present situation | - present living arrangements;
- situation, attitudes, lifestyle
habits, problems. (alcohol/drugs/
emotional). |
| 4. Education & Employment | - history, patterns, areas for develop-
ment. |
| 5. Future Plans | - goals, ability to reach these goals |
| 6. Assessment | - Summary of major strengths and
weaknesses; needs & resources
available to meet needs;
recommendations. |

This design incorporates the three major dimensions of social reporting; 1) the historical dimension (outlining the developmental history and influences of the offender), 2) the crosssectional, or latitudinal dimension (recording existing situation and coping) and the 3) planning dimension, in which the writer attempts to give his recommendations some predictive power based on the patterns of past and present performance.²

¹ At the present time a committee is examining ideas for an improved province-wide format, which may eventually replace form 915.

² Mills, p.3.

The Process of P.S.R. Preparation



III. A STRATEGY FOR DATA COLLECTION

The task of data collection relies on the investigator's ability to first, identify the sources of information and then to tap these sources for the relevant information. Sometimes there is too much information, and the investigator's problem becomes one of selectivity. In other cases, a lack of information challenges the investigator in his search for significant items.

As the sources of data tend to be varied, so are the number of methods for getting at the information. Some techniques are better than others. For example, a personal face to face interview provides a better channel for communication, insofar as the audio of the telephone is now enhanced by the 'video' of the face to face encounter. Although a personal interview may seem advantageous in most situations, the inquirer's options may be limited by time, distance and convenience. It may be helpful to present some strategies of data collection to help the investigator approach the task of data collection with thoroughness and flexibility. Pincus & Minahan¹ have proposed a number of ideas with respect to formulating such a strategy.

1. Use more than one technique

Each technique has its own advantages and disadvantages. Using one technique in combination with others, tends to minimize the disadvantages and build upon the advantages.

2. Evaluate the Source

People who are interviewed often do not share the same level of objectivity as the investigator. Information is often shaded or distorted by the biases or vested interests of the source. For example, if a mother felt that she would be blamed for not being able to handle her son's problems, she might play down such difficulties. On the other hand, if she were anxious to have "the authorities" somehow remove him from the home, then she might emphasize his problems, and so provide a different kind of picture.

¹Allen Pincus and Anne Minahan, Social Work Practice: Model and Method, (Itasca, Illinois: F.E. Peacock Publishers Inc., 1973) pp. 133-137.

3. Test the Assumptions

The investigator's data are the raw material for his assessment. However, because of the selectivity which must go into data collection, it is all too easy to collect and analyze information in a manner which supports preconceived assessments and impressions. For example, once a person has been labelled "psychotic" or "disturbed", his subsequent behaviours are often interpreted to confirm these labels. Once the worker has developed an initial outlook, it often becomes easy to support his assumptions with new information. This is the basis of the self-fulfilling prophesy. The investigator must be flexible enough to question his assumptions when they are not substantiated by the data.

4. Sampling

One tree does not a forest make. Likewise one source of information does not make for a complete report. Unless the purpose of the report is to obtain one viewpoint or one piece of information (e.g. a potential employer's agreement for temporary absence) the writer should tap several sources rather than just one.

That which a probation officer hears and sees during his brief interviews is often assumed to be representative of the situation or the person. This may not be the case however, and it may be that a number of different "samplings" of the same person may be needed in order to determine the most representative picture of that person. Interviewing a number of sources and seeking to corroborate information provides the best medicine against the biases brought on by lack of sampling.

5. Structure

Structure refers to the particular way the data collection techniques are organized. In order to structure his approach, the investigator should have a good understanding of the kinds of things he wishes to discover. In addition he should be aware of situations or tasks that are likely to produce that kind of data. Some data are best collected through personal interviews; others can be accomplished by telephone, or through written records. Even during personal interviews, it may be preferable to structure the session according to

the situation. In some situations it may be best to use a "free-flowing" format, and in others a more structured question and answer approach may be better. The structure and dynamics of the interview itself is examined in more elaborate detail later in this chapter.

WRITTEN RECORDS

General Remarks

Most investigators can rely on at least a few existing sources of written material. Since most correctional reports originate in the post-trial stage, there are already records which have become part of the criminal justice memory bank. Court and police records exist for just about everyone travelling the correctional route. For those who have made the "trip" before, previous information is available from previous probation or inmate files. Records are often also available from the other human service institutions. Medical, educational and employment information is often available, as are the records of other social agencies with whom the offender may have had contact.

Obtain Written Records

Retrieval of information already stored as ministry records is not a difficulty. As authorized employees of the ministry, P.O.s are permitted access to these records. Being furnished with records from the police and court officials depends largely on the willingness and co-operation of those agencies, although technically, these items are part of the "public record".

Records from all other sources can only be obtained through permission of the subject. To expedite this procedure, the ministry relies on two authorized release of information forms. To obtain psychiatric information, the use of Form 14 under the Mental Health Act is mandatory. P.O.'s should be aware that for those subjects who have not yet reached the age of majority (19), the signature of "the nearest relative of the patient" is required.

In order to retrieve information from other sources, such as educational institutions, or other social agencies, the ministry has available the 'Release of Information' form (No. 9878). This form sets out the purpose of the information, and specifies the Probation and Parole Services as the recipient of the information. The legal branch advises that whenever this form is used, it is good practice to specify what records & information are being solicited. For example if a school is being contacted, the P.O. can specify:

"and including information and records regarding attendance, behaviour and academic progress."

They also recommend that, when possible, have someone else other than the investigating P.O. sign as a witness (a secretary, or another P.O.).

Use of Previous Files and Records

The review of existing records provides a useful starting point for the investigation. Although records contain valuable data, there are a number of points to keep in mind:

1. The purpose for which the original information was collected may not correspond to the purpose of the present report, and the information may be incomplete or in a form that is not useful.
2. Probation officers seem susceptible to over-valuing the information which exists in their own agency files.¹ Information committed to print tends to assume credibility and an authority of its own. Not only does the power of the printed word tend to legitimize the information, but studies have shown that P.O.s seem reluctant to question their own agency's information.²
3. Probation officers tend to rely very heavily on their own previous assessments of a known client. It often becomes easier to overlook signs of change in familiar cases, particularly if the P.O. has tended to view the person in the same way over a period of time.
4. Records do not only have the effect of lending respectability to the information, but they also tend to "freeze the person in time." A previous assessment may be outdated, and no longer indicative of the client's present situation. Unquestioning repetition of a previous inaccurate report also serves to perpetuate what may have been a faulty diagnosis in the first place. The temptation of repeating previous facts, without an attempt at corroboration, should be avoided.

¹F.G. Perry, Information For the Court: A New Look at Social Inquiry Reports, (Cambridge: Institute of Criminology, 1974).

²Perry.



Ministry of
Correctional
Services
Ontario

Release of
Information

please
print clearly

I hereby give consent and authority to	
Agency/Agent	JANE SOCIAL WORKER
	METROPOLITAN TORONTO SOCIAL AGENCY
Title	DIRECTOR
Address	
612 YORK STREET, TORONTO, ONTARIO.	

to release information concerning myself

Name	JANE DOE
------	----------

Address	2162 RANDALL AVENUE, TORONTO, ONTARIO.
---------	--

to	PETER OFFICER, 5233 DUNDAS STREET, WEST, TORONTO.
For purposes of (check one)	Supervision ☐ Preparation of Court Report ☒

Client's Signature	Witness	Date
<i>Jane Doe</i>	<i>Pie Clarke</i>	August 18, 1980

Form No. 9879 (501-014) 8/77



I, ...
(print full name of person)

of
(address)

hereby consent to the disclosure or transmittal to or the examination by

.....
(print name)

of the clinical record compiled in
(name of psychiatric facility)

in respect of
(name of patient)

see note 5

.....
(signature)

.....
(witness)

Dated the day of 19.....

FOR NOTES SEE REVERSE

(reverse side of form 14)

1. Consent to the disclosure, transmittal or examination of a clinical record may be given by the patient or (where a patient has not attained the age of majority or is not mentally competent) by the nearest relative of the patient.
See subsection 3 of section 26a of the Act.

2. Patient.
Clause b of subsection 1 of section 26a of the Act states that "'patient' includes former patient, out-patient, and former out-patient."

3. Mentally competent.
Clause f of section 1 of the Act defines "mentally competent" as " having the ability to understand the subject - matter in respect of which consent is requested and able to appreciate the consequences of giving or withholding consent . "

4. Nearest relative.
Clause g of section 1 of the Act is as follows:

" ' nearest relative ' means,

- (i) the spouse who is of any age and mentally competent, or
- (ii) if none or if the spouse is not available, any one of the children who has attained the age of majority and is mentally competent, or
- (iii) if none or if none is available, either of the parents who is mentally competent or the guardian, or
- (iv) if none or if neither is available, any one of the brothers or sisters who has attained the age of majority and is mentally competent, or
- (v) if none or if none is available, any other next of kin who has attained the age of majority and is mentally competent."

5. Signature

Where the consent is signed by the nearest relative, the relationship to the patient must be set out below the signature of the nearest relative.

Written Records and the Client

The success of obtaining written data or records from agencies outside the criminal justice system depends on the client's willingness to co-operate by giving permission for the release of such information. "Co-operation" does not mean slipping a release of information form under the clients' nose and talking him into providing a signature in the manner of a fast talking encyclopaedia salesman. Having determined that a specific record or report is needed, one may wish to follow some suggested guidelines:

1. Explain why the information is sought, and why it would be helpful to the client.
2. Caution that the information contained in the records will be examined, and can be used in the preparation of the report. This would include a consideration of all the information, positive and negative.
3. Explain that the client's permission is required and reluctance to supply permission will not be used against him.
4. Allow the client to read the release form before signing.
5. Ask him to sign the form, and then have it duly witnessed.
6. Supply the client with a copy of the form should he request one.

Curnock & Hardiker, summarize the issues involved:

"Records should be used as a source of clues for the worker as he begins to build hypotheses, but they should not to such an extent that he prejudices the issue. Every social inquiry provides an opportunity for a new look...."¹

¹Kathleen Curnock and Pauline Hardiker, Towards Practice Theory, Skills and Methods in Social Assessments, (London: Routledge & Kegan Paul), 1979, p.20

The Requisition Slip

Perceptive observation need not wait until the first interview or home visit. Even before the worker has done any in-depth study of the person, there is an immediate opportunity for getting some informational footholds. Where a PSR has been ordered, a judge's requisition slip is usually available. This requisition gives us some basic data at the outset which may be more informative than one might immediately think. For example, the address of the offender may immediately tell us what kind of housing environment is involved. Most officers become familiar over time with the communities in their area, and even more specifically with particular streets and buildings. Knowing that a 16 year old with a local address is being remanded in custody may indicate that there are problems around his continued residence in the parental home. In addition, the nature of the offence may be unusual, or typical of a particular age group or area. Although such information supplies us with useful hints, one would be wary to immediately stereotype a person or a situation given the little information at hand. Again, as with all written records, the data can be useful as a source of basic hypotheses that require further testing and exploration.

JUDGE'S REQUISITION TO PROBATION OFFICER FOR PRE-SENTENCE REPORT		CODE B 66211
Date: OCTOBER 1, 1980		
JUDGE	J. JUDGE	
Courtroom	A at PROVINCIAL COURT	
ACCUSED	BRUCE DOE	Age 16
Address	12 LOWER INCOME RD., EASTSIDE	Tel. No. N/A
Committed this day of ARSON		
Remanded to	NOV. 1, 1980	☐ On Bail ☒ In Custody
CO-ACCUSED		
POLICE OFFICER JONES		
DIVISION	5	DISTRICT 2
CROWN COUNSEL	SMITH	
DEFENCE COUNSEL	DUTY COUNSEL	
<i>J. Judge</i>		

INTERVIEWING: WHOM, WHEN, WHERE

"Whom" to interview depends on what information is required and who owns the information. In addition to interviewing the offender, a number of collateral sources must be contacted - family, school authorities, employer, police, etc.

In terms of location, the offender can be interviewed in a number of settings:

1. The probation office
2. At home, or office of the interviewee
3. At the jail

There are a number of advantages to having the interview in the probation office. It is generally more private than an interview conducted in the offender's home, where the interviewer may have to contend with interruptions from other family members as well as competition from the radio or T.V. In addition the subject is removed from the people with whom he is in immediate relationship, and hence may feel more comfortable in freely expressing his opinions. Where possible, the P.O. should attempt to interview the offender's family in their home. Obtaining an accurate picture of the home and neighbourhood is difficult unless some kind of home visit is made. Although it may be somewhat distracting to obtain thoughtful answers from a family member who is watching the morning game shows, some control is possible. When arranging the appointment for a home interview, the writer can request that the interview take place in privacy, and upon meeting an adversary in the form of the T.V. or radio, can politely request that it be turned off.

Occasionally, after all the interviews are completed, the report writer may feel that he requires more information from the offender in order to clarify issues or discuss items which may have come up during the interviews with family or other collaterals. In such cases, there should be no hesitation in re-interviewing the offender in order to clear up these issues, even if it means doing it by telephone. Guessing the answers or making hunches should not be part of the strategy of the report writer.

UNDERSTANDING THE CLIENT

The nature of the officer-offender interaction during an interview arises in large measure from personalities and background of the parties involved. It is useful to recognize that many of our clients, and subsequently their friends and families, are unwilling participants in the criminal justice system. Most people caught up in the correctional process come with their own unique set of anxieties and expectations. The way a person represents himself can be affected not only by the unwilling nature of the forced relationship, but also because of the myriad of factors which affect our moods from day to day. The anxiety of meeting a probation officer or a "hard day at the office" all affect the perception we have of a person.

Being sensitive to the kinds of "baggage" people bring with them is not only a valuable first step in understanding the client, but also helps to identify the factors which can interfere with the collection of data. Vriend and Dyer,¹ in an article on the reluctant client, have outlined a number of reactions which the worker may have to contend with:

- | | |
|------------------|---|
| Silence: | refusing to speak, or nodding and shrugging as a minimal form of communicating |
| Hostility: | another form of reluctance "I didn't ask to come!" |
| Over-Compliance: | resistance in its most subtle form:
A form of manipulation, in which there is an unwillingness to engage in the sharing of significant information. Reluctance takes the form of "diversionary excursions and trips down numerous by-ways of great insignificance." (Dyer p. 242.) |
| Defensiveness: | the prospect of being examined by a complete stranger, who will then interpret his life with its weaknesses and problems to a court of law, can be a highly anxious experience. |

¹John Vriend and Wayne W. Dyer, "Counselling the Reluctant Client," Journal of Counselling Psychology, 20 (1973), pp. 240-246.

These reactions may not be totally characteristic of the individual, but may be a function of the person himself and the situation he finds himself in. In some cases, the client's resistant reactions to the interviewer may not have anything to do with the interviewer as a person, but moreover are a reflection of the client's conditioned attitude towards authority. Resistance may also stem from the client's reluctance to reveal too much, because of the fear that decisions of considerable impact will be made on the basis of this information.

Chances are that the criminal justice system has taken a degree of control over the offender's life. It may have also created a great deal of uncertainty out of what may have previously been a regular predictable lifestyle. For unsentenced offenders there is the uncertainty of the court's judgement and the effect this might have on his family life and employment. For those serving time and facing a possible parole, there is uncertainty of whether release will be granted, and if so, what will happen once he's back on the street. Uncertainty and the loss of control, both by-products of involvement with the courts and corrections, are also factors which tend to enhance the stress of individuals. It is important to be aware of this because very often we identify the various negative reactions of our clients as an indication that the person is "bad", or uncooperative. We also have to be aware of, and acknowledge our own particular "baggage", and how our own biases and expectations can get in the way of the interpretation of the data which we receive. There is a danger that sometimes P.O's, when faced with reluctant clients, react inappropriately. Defensiveness, hostility and overcompliance by the subject can sometimes result in the same attitudes being reflected back to the client by the investigator. We should be sensitive to the possibility of this type of counter-transference occurring, and explore whether our impatience or negative reactions stem from an unwillingness to understand the client's position.

INTERVIEWING THE PARTIES

Prior to delving into the various areas of client functioning, there are a number of preparatory items worth considering. These include:

1. Setting and Preparation for the interview
2. Introductions and Explanations of the PSR process
3. Confidentiality

I Setting & Preparation

Try to interview in a quiet, private location with comfortable seating and where there will be as few distractions as possible. Show interest by arranging the appointment (if possible) with consideration for the interviewee's convenience, (i.e. after work or school). It is a good idea to read all the obtainable material relating to a subject prior to the interview. Some officers prefer to have received information from the police prior to seeing the offender. Although this is not always possible, the police report can be a valuable beacon to the various areas of importance to be followed up, and can be used to validate the statements made by the client.

II Introduction

Without undue hesitation, the investigator should introduce himself, explain the purpose of the report, and the role of the investigator in the preparation of that report.

Probation officers have completed so many reports and have interviewed so many people, that they often approach each new person and interview with complacency assuming the client "knows what it's all about". It is useful to remember that although workers in the field understand and appreciate the workings of the correctional world, their clients often do not. Many are mystified by what happened in court, and may be experiencing a confused anxiety about the whole affair. Explaining the role of the investigator, and the nature and purpose of the report, helps to defuse some of the anxiety and promotes a positive climate of communication.

Some of these items to be discussed at this initial stage may include:

1. An explanation of the purpose of the report and how it will be prepared. The offender should be informed that information from a variety of sources will be used for the preparation of this report.
2. The nature of divulging the report's contents should be spelled out to the client. He should be advised that it is a court document which will be made available to the Judge, the Crown and his lawyer and himself. The client should be advised that he and his lawyer will be able to comment on the report's content, and will have the opportunity of correcting any errors. The client may also be advised that should a jail term result, then copies of the PSR would be sent to the institution and the parole board. It should be noted that the PSR is not a truly confidential document. It has happened that judges occasionally read out portions of the PSR aloud in court, and that accused individuals are sometimes given their own copies to keep. (See page 33a).
3. The Client can be advised that the information provided during the course of the investigation is not privileged, and that any information or admission may be recorded and used in the report. Parents, friends and other collateral sources should be cautioned regarding any statement they wish to make. These sources should be told that information they provide may be included in the report, and that the offender will have an opportunity to read the report. In addition, they may be called upon to substantiate their statements in court, in the event that portions of the report are disputed or contested.
4. The role of the P.O. should be carefully explained. Some offenders come with the notion that because a probation officer is preparing the report, it means that they will be placed on probation. It helps to point out that PSR preparation is one of the roles of a P.O., and that in doing so the officer assumes a neutral, objective stance. Since inquiries delve into the private lives of people, both the purpose of the report and the role of the officer need to be understood by the subject, so that he is aware of the reasons for the intrusion. On occasion, the client, having been won over by the worker's efforts to reduce anxiety, may see the worker as a "counsel for the defence" in his case. The client is more likely to accept and relate to the investigator, if he is clear about the purpose of the interview.

Taking Notes

Considering the wealth of information dealt with, it is expected that most interviewers will find it necessary to take notes during the interview. Sharing the need for notes in a manner that solicits permission from the interviewee will help allay the suspicions of the subject.

Note taking should be taken in full view of the client rather than surreptitiously. However, a word of caution may be in order. As the interviewer shifts his eyes to the paper to write his notes, he may not be aware that the interviewee also tends to shift his eyes - to the notes that are being written. As people do have a habit of trying to read what the investigator writes about them, it may be judicious to avoid writing down adverse impressions that the interviewee can read. The investigator may feel that such highly-charged impressions may be more diplomatically recorded after the interviewee has left. One idea might be to write down a quick thumbnail sketch of the offender immediately following the interview. Such a series of quick impressions will later help the officer in stimulating a mental image of the offender. This is a helpful device, especially if the officer is working on a number of PSR's at the same time, hence increasing the possibility of confusing the various images and impressions of the various individuals involved. An example of such a quick thumbnail sketch might be:

"tall, thin, stringy long blond hair, - somewhat bored
by whole affair, monosyllabic, seems slow, etc.."

A note about the contents of Ministry Records

Occasionally, a client may request to inspect and examine his file or the notes and correspondence which pertain to him. According to the Legal Branch of the Ministry of Correctional Services, all such notes and information are presently confidential and the disclosure of such information is governed by Section 10 of the Ministry of Correctional Services Act:

10. Every person employed in the administration of this Act, including any person making an inspection, investigation or inquiry under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inspection, investigation or inquiry and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act, the Parole Act (Canada), the Penitentiary Act (Canada), the Prisons and Reformatories Act (Canada) or the Criminal Code (Canada) or the regulations thereunder;
- (b) to the Ombudsman of Ontario or Correctional Investigator of Canada;
- (c) in statistical form if the person's name or identity is not revealed therein;
- (d) with the approval of the Minister.

This does not mean that the documentation is totally hidden from view. A ministry official can quote from correspondence and all records can be subpoenaed for court. However, a subpoena only requires that a person bring the information to court; it does not necessarily mean that the judge has to honour the subpoena. There is a recent appeal case R. v Shannon in which the B.C. Court of Appeal ruled that a defendant or his counsel do not have a right to examine in private the probation dossier used to compile a presentence report. The court decided that all the information upon which a presentence report is based can and should be examined in open court. The court relied in part on R. v Mornelly which ruled that the accused has the opportunity to challenge or contradict any information, and "where the accused does challenge or deny information to the court which the judge considers relevant, then proof of this information should be given with the onus being on the Crown to prove this information."

Another Note on Confidentiality and Disclosure

The whole issue of confidentiality (p.31) in PSRs and the question of what information should and should not be the subject to disclosure has not been entirely resolved. In R. v. Benson and Stevenson, (1951) the court addressed the situation where negative information was not disclosed to the offender. The court ruled that . . . "if the report contains prejudicial observations which the court considers relevant and is likely to influence his sentence and this material is denied the prisoner, then proof of it, if required, should be given in open Court when its accuracy may be tested by cross-examination." In Reg. v. Dolbec (1963) the court addressed a similar issue in deciding that it "was improper not to inform the accused of the substance of the report and, in so far as it contained prejudicial observations, not to afford him the opportunity of disputing the report and of testing its accuracy by cross-examination in open court."

Although subsequent amendments to the Criminal Code seemingly addressed the problem of non-disclosure by making it a requirement that the clerk of the court provide the accused or his counsel with a copy of the report (s. 662(2)), there still remain some unaddressed problems. Graham Parker, in an article on pre-sentence reports wonders whether, even with the disclosure provisions of s. 662(2), there should be occasions where disclosure should be limited:

"For instance, there may be disturbing aspects of (an accused's) background of which he is unaware or which are highly confidential and have no connection with the offence for which he is being sentenced (e.g. . . . his wife is planning to leave him . . .). The first line of defence would be the good sense, taste and probity of the social worker. If, however, the probation officer feels that such confidential data must be disclosed for sentencing purposes, then can we rely on the discretion of the clerk of the court (mentioned in 662(2)) or the accused's counsel?"¹

There are a number of other problems relating to the confidentiality (or lack of confidentiality) in PSRs. Although 662(2) instructs the court to provide copies of the report to the appropriate officials and the accused, there are no directions about what the judge does with the report in the open court.² It has already been mentioned that occasionally judges will read out portions of the report aloud. Parker, in his article, probes these issues in some depth, and the reader is encouraged to read this article, in order to become more fully aware of some of the problems of confidentiality.

¹Graham Parker, "The Law of Probation", Canadian Journal of Criminology and Corrections, Vol. 19, No. 1 (January 1977), p.103.

²Graham Parker, p. 103.

SOME PROBLEMS ON INTERVIEWING

1. Contacting Parents

It would appear that apart from official sources (e.g. school, medical records), where a signed release is required, soliciting information from other sources does not require the offender's permission¹. Occasionally however an offender will request that a certain source not be contacted. This often arises in the case of youthful offenders who are concerned that their parents not discover their involvement in the offence. Although there is no official rules that are laid down to follow with respect to this problem, a number of principles have evolved over the years to deal with this problem.

1. Sometimes a judge will order a pre-sentence report, simply as a means of ensuring that the parents find out about the offence. It is submitted (by the author) that this is a very inefficient method of conducting business, given the time, effort and cost that is invested in the production of a PSR. However, if a judge delivers such an order, the officer has to comply, unless another alternative is negotiated between the judge and the P.O.
2. If an adequate "picture of the accused . . . in society . . ." can be obtained without interviewing the parents, then there may be no real need to do so. There may be an older married sister, aunt or uncle or grandparent that may be able to offer the required information.
3. The reasons for not contacting a source should be adequately probed. If the officer feels that given what he can find out from other sources may be adequate, and that the damage caused by informing the parents may overwhelm the benefits, then a decision not to contact might be considered.

¹Graham Parker recommends that the offender's permission should be obtained no matter what or who the source of information.

4. In many cases, there is a high probability that parents will eventually find out about the offence. Sometimes the damage caused by hiding this from the parents may be greater than the incident itself. Because of this, an offender should be encouraged to tell his parents, who (after the initial upset) will likely be more understanding than one would have originally expected. "Coming clean" with parents will also get rid of the constant worry about keeping the matter secret.

An offer by the P.O. to "talk to the parents about it" will sometimes be comforting to a fretful offender, who like most of us has a tendency to expect the worst in any given situation.

2. Refusing to be Interviewed

According to Carl Dombek, of the Ministry's Legal Branch, we have a duty under the Ministry of Correctional Services Act to "procure and report such information pertaining to a person . . . as the court may require . . ." If a person refuses to be interviewed, Mr. Dombek advises that there should still be an attempt to relate as much as possible. Often there is a judgement made that the offender was unco-operative because of a refusal to supply information. We should remind ourselves that sometimes this lack of co-operation may not mean that the offender is a mean and nasty person, as there may be very legitimate reasons in his or her mind not to disclose information. For example, in one case the offender stated that he was innocent of the charge, and intended to appeal the court's decision. He felt that offering information about himself for sentencing purposes would amount to recognition of the court's decision to find him guilty.

Under these types of circumstances, it may be best to tell the court that the offender declined to offer any information voluntarily, and to leave it up to the court and the accused's lawyer to discuss and decide whether he is co-operative or not.

INTERVIEWING PRINCIPLES

Principles to Recall

A discussion about interviewing would be incomplete without a brief reminder of some of the guiding principles of casework interviewing. Some of the more salient concepts to remember include:¹

1. COMMUNICATE EMPATHY²
2. MAINTAIN A NON-JUDGEMENTAL ATTITUDE
3. CONVEY INTEREST
4. ALLOW THE SUBJECT TO TALK
5. BE A GOOD LISTENER

Questioning

The quickest and easiest way to get a specific piece of information is through questioning. Although it is an efficient method of data collection, questioning can become uncreative and overly structured. The repetitious use of questions tends to promote a climate where the interviewee need not do anything else but wait for each question and respond accordingly. Mills writes that such an approach:

"... tends to make the respondent more passive, and more like an object to be manipulated; the offender is robbed of his identity as a participant in the process."³

¹The article by Hartman "Interviewing Techniques in Probation and Parole" "Building the Relationship" Federal Probation Vol 43, No. 1, March 1979 gives a summary of some of the key principles.

²Empathy does not involve a premature reassurance by the officer that "everything will be alright". Although the officer may be trying to be reassuring, such statements implies a judgement that the P.O. is not in a position to make.

³Mills, p. 48.

Non-directive questions, or those questions which allow a variety of responses, tend to be more informative than directive, or closed questions, which only require a "yes" or "no" response. Non-directive questions give the respondent the opportunity of taking some control of the information exchange. It also provides a mechanism of opening up for a discussion of feelings and impressions. Through such a technique, the respondent is able to engage in a little more thought and analysis than would be permitted by the 'yes-no' technique.

EXAMPLES OF DIRECTIVE & NON-DIRECTIVE QUESTIONS

- | <u>Directive</u> | <u>Non-Directive</u> |
|---|--|
| 1. Do you realise the possible consequences of that? | 1. Would you like to tell me about what happened? |
| 2. Are you now on Probation? Who is your P.O.? | 2. What do you remember about your life in the group home? |
| 3. How old are you? | 3. What do you plan on doing now? |
| 4. Have you had any contact with other social agencies? | 4. How do you feel about the possibility of going to jail? |

Engaging the Client

Key to a good interview is the investigator's ability to provide a climate in which the subject will be willing to express himself. Having already anticipated the areas to be explored and having explained the purpose and nature of the interview, the interviewer may wish to consider how to best engage the client. Here are some suggestions:

1. One technique may be to begin with a collection of the rough data, i.e. names, dates, and places and then slowly as the respondent becomes more comfortable, start exploring for information using more non-directive questions.
2. Another approach may be to begin the conversation on a friendly and superficial level and then gradually lead to the particular areas which the investigator and subject feel to be relevant to the inquiry. However, in order to maintain the subject as the centre of attention, it may be useful to use the small talk in reference to the client. For

example, by asking "how are you managing in this weather?" the P.O. is already beginning to focus on the client and shows an interest in him.

3. A third technique focuses immediately on the current situation. Questions such as "Would you like to talk about what brought you here?" or "How do you feel about this whole business?", help to immediately open up areas of concern for the client, and helps the interviewer focus in, early in the interview, on the more meaningful data.

PREVIOUS OR KNOWN CLIENTS

The possibility of perpetuating past assessments of a known client was mentioned earlier in the guide. As there is also sometimes a tendency to form lasting impressions early in the interview session, it is important at this initial stage of the interview, for the P.O. to formulate a set of basic questions in his mind which will help test out some of the previous assumptions.

Some ideas for questions are:

1. Do I see any change in his attitude?
2. How differently is he reacting to this situation, compared with his previous situations? Have his coping mechanisms changed?
3. Is his position more hopeful than before?
4. Have his problems become more sharply defined?

By approaching the answers to these questions the P.O. is able to make a fresh search for changes and differences in the subject, and hence avoids the trap of "freezing" the client in time.

LISTENING AND OBSERVING

In a P.S.R. situation, the interviewer is not given the privilege of slowly piecing together an understanding of the offender bit by bit over time. In most cases the picture has to be sketched in one session, which makes it incumbent on the interviewer to make effective use of listening and observation skills. There is a considerable amount of literature on the subject of communication in general and communication in a social work setting in particular. Officers who are rusty in this area, or who need further development with respect to communication are urged to consult some of the available texts and articles. However, so as not to ignore the topic altogether, a number of important parts are summarized below.

Verbal Communication

Interviewers should recognize the dual aspect of any message. These are 1) the content (what is said) and 2) the meaning (or underlying feelings and attitudes. The way a topic is discussed, and where emphasis is placed all point to a unique set of motives and feelings. The statement "Well, (sigh) . . . I guess I never did make it in life, did I?" is a good example. If one was not listening to the feeling behind the message, one might interpret the statement at its face value. However, given the 'sigh', the tone, and the terminal question, one is cued in to the fact that perhaps the issue of failure has been a familiar one. The superficial message is "I failed"; the true message is "see what a failure I am? Even you can see that I'm a failure." When the listener tunes into "feeling," he becomes more aware of the sense of resigned failure in the respondent, who at this point is acknowledging that "true to form" he has managed to live down to the expectations of others.

Non-Verbal Communication

Communication goes beyond mere words. Ideas, perceptions, attitudes, and feelings are also communicated nonverbally. The manner in which we utter words and sentences, where we sit, and the accompanying body language, all play an important role in the act of communication. Where a client chooses to sit in a room, how close he approaches the interviewer, and how he sits in the chair, degree of eye contact are all indicators of the person's attitude towards the interviewer and his degree of comfort in the situation.

Before making conclusive interpretations in such situations, the interviewer has to be aware of the impact his presence may have had on the interaction. Again, what happened might not have been representative behaviour, but rather an outcome of the interview situation. Often an offender's behaviour in jail may be different "on the outside," and one must always evaluate the context of the situation and seek other sources to validate the observations.

Perceiving the Environment

Just as a good observer notes the possible significance of a "Gay Power" button, so it is possible to learn a great deal from the cars people drive, and the contents of their homes. We all "see" these items and symbols, but we must train our minds to selectively seek out and perceive them and then interpret their meaning.

Selective perception during a home visit may give the investigator a glimpse into the lifestyle of the owners. How is the home furnished? Are the furnishings of poor quality, or do we find expensive furniture and appliances? If the family subsists on a low income, could the extravagance of household items hint at the credit habits of the occupants? Religious symbols, the kind of books and magazines, the presence of large quantities of empty liquor bottles are all items which help fill in the portrait of lifestyle and habits.

DISCUSSION QUESTIONS

1. How do I react when a client is cocky (or defiant, submissive) during an interview?
2. How can these reactions interfere with the process of accurate communication?
3. What particular interviewing approach may be appropriate with those individuals who have considerable difficulty in expressing themselves?
4. How do you deal with what appears to be a lie?
5. How difficult would it be for you to demonstrate objectivity and empathy with a convicted child-molester? Can you think of other examples of cases you might have had difficulty with?
6. What particular interview style do you employ?

IV. PRESENT OFFENCE & PREVIOUS RECORD

Introduction

Both the offence currently before the court, and those which have preceded it, are important topics for study in a presentence investigation. It is the offence which has referred the client to the court in the first place, and it is the court's sentence which becomes the consequence of that offence. The sentence received depends in measure on the seriousness and circumstances of the offence and the history of previous illegal acts. There is an informal "tariff" system in sentencing which implies a direct relationship between higher penalties and crimes (and criminal records) of increasing severity. If the officer considers the seriousness of the record and the current offence in terms of possible sentencing outcomes then a more realistic assessment and recommendation is possible. In addition, an analysis of the circumstances of the offence may be helpful in understanding the offender's particular personal problems, habits and attitudes.

Understanding the Present Offence

The shoplifting of a \$2.00 trinket is less serious than the mugging of an elderly woman. In terms of the legal "tariff" of sentencing the likelihood of a more severe sentence is to be expected for the mugging offence. Although it may not have serious impact on the victim, the \$2.00 shoplifting can be indicative of an offender's personal problems, especially if it is the last of several similar offences. It may also be seen as a means of attracting attention in order to get help for personal problems. By the same token, an ABH perpetrated under the influence of alcohol may reveal circumstances which cause the client to lose control.

The extent to which an offence is planned or premeditated can also contribute to our understanding of its seriousness both in terms of 'tariff' and client problems. An offence committed wilfully is usually treated with more severity by the courts than one which took place under extreme provocation, or an impulsive act. The expression of an offence may be indicative of a person's low boiling point - a reduced ability to cope with stress. In another case, the act might have been planned in a sober clear-thinking state, indicating a sociopathic perception of the world. In this case the offender may feel no particular wrong about what he has done, and has perhaps even acknowledged that a criminal life is worth leading.

The way a person interacts with his peers and how he uses his time can also be illuminated by the offence in question. A Break and Enter by a number of 17 year olds who have spent the previous four hours surreptitiously drinking outside a shopping mall as part of a routine of boredom may be indicative not only of the leisure habits but also of the offender's relations to his peer group.

However, it should be stressed that the characteristics and behaviour which were in evidence during the offence do not necessarily mean that these characteristics are representative of that person's overall behaviour. Just because a person showed that he was easily led into committing the offence or was drunk prior to the crime does not make him a follower or a drunk. The offence is simply one event in a chain of behaviours, and is important only as a jumping-off part to investigate possible patterns and meanings.

Attitude towards offence

The Probation Officers Association of Ontario (POAO) Study (1975), on presentence reports, highlighted an interesting statistic: 83% of all judges polled felt that knowledge of the offender's attitude towards the offence was "essential information". This makes sense given that attitude represents a person's opinion of his behaviour (or that of others), and that if he feels that this behaviour is acceptable or justified, there are less in the way of internal controls to deny that behaviour in future. With respect to lawbreaking, we find that a person's attitude, or the way he thinks about his actions is governed by the sense of guilt or shame¹ which may be present. Mills writes:

¹Guilt arises from the painful recognition of having violated one's own code of values. The guilty person has acted against his conscience. Shame, on the other hand is the painful experience of losing face. It is a social experience, requiring witnesses. Shame can be imposed by others, whereas guilt arises from within. (Mills, pp. 72-73).

The corrections investigator, in assessing an offender, may find convincing evidence of remorse or contrition with regards to the violation committed. . . An offender who genuinely regrets his crimes lessens the social need for external penalties. His behaviour is self-correcting; his punishment is already built in. In some cases, the guilt-driven offender seems to welcome the judge's sentence, using the sentence as penance or expiation.¹

Perry, in his research of presentence reports in England, also makes a strong case for including 'attitude' details in a report:

Here is an essential element to complete the picture of the defendant. For it can be of great importance to point out to the court, for instance, that the man is embarrassed and crestfallen to the point of already being cured just by the experience of being caught and prosecuted. Or is he cocky, unimpressed with his guilt, and unconcerned as to consequences? Is his emotional response flat and inappropriate? Is he worried about the effect of all of this on his family, or is he mostly just worried about himself?²

It may be helpful to note that people often view their behaviour during the offence as less serious than it actually was. Sometimes the offender has a tendency to minimize his responsibility, blame the victim (e.g. "he had it coming") or justify his actions. To social equity theorists this may represent a means by which the offender is able to minimize his feelings of anxiety and wrongdoing, and may not necessarily signal that the offender is a "bad actor". This does not mean that con jobs do not occur. Investigators should expect that some offenders will diminish their role in the offence in the hope of being perceived in a better light.

Attitude towards the offence can be broadened to include a consideration of the person's attitude to possible supervision. A fixed impression that probation is a "complete waste of time" or that community service or restitution would be "dumb" may assist the officer in gauging the subject's suitability for these programmes.

¹Mills, p. 75.

²Perry, p. 60.

Attitude towards authority

While on the topic of attitude, it might be worthwhile to mention a few words on "attitude to authority." According to one study,¹ probation officers feel more confident in their ability to rate a persons attitude to authority almost better than any other variable.

According to this study, attitude towards authority tended in many cases to be judged on the basis of the probation officer's perception of how co-operative the offender was during the investigation of the report. These possibilities would suggest that judging a person's attitude to authority solely on the basis of how he treated the officer during the PSR interview may be oversimplistic. It may be necessary to go beyond the office interview and assess the subjects responses to other authority figures such as parents, teachers and police, before a realistic assessment of attitude to authority can be gained.

The Official Version

The police officer involved in the offence should not be passed up as a valuable source of information. If the police officer's comments are available prior to the interview, a useful vantage point is gained in being able to anticipate and explore possible discrepancies with the offender during the interview. P.O.'s are always complaining that it is difficult to contact the investigating officer, especially given their shift-work schedules. By trying to reach the officer as soon as the requisition slip has arrived, delays are minimized. Messages can be left with others at the police station, Staff Sergeant or Court Officer, who can act as intermediaries to obtain the information.

In addition to obtaining the offence details from the officer, questions regarding the offender's background may be helpful. The police can often provide informative details about the companions of the accused and his family, especially in instances where this is already known to the police. Although police officers sometimes tend to colour their perceptions into a "law and order" mould, one can often expect insightful and useful impressions regarding the offender's problems, as well as their impressions as to what kind of disposition they feel would be appropriate.

¹Perry. p. 30.

Conclusion

Allowing the offender to relate his involvement in the offence is important if the writer wishes to discover more about him or her as a person. The Alberta Correctional Services Division guide on presentence reports advised that . . . "the offenders story should reveal the extent to which the offence was impulsive or premeditated, the environment and situational factors contributing to the offence such as stressful situations, compulsive behaviour or peer group influences . . . The officer should satisfy himself that he has sufficient understanding of the offender in the context of the criminal act to relay an assessment to the court of the offender's attitude as it relates to the offence."

It should be pointed out that "relating the story" refers to relating the story during the PSR interview, and not providing an account of the story as part of the PSR. (See page 50).

PREVIOUS RECORD

Knowledge of a previous record is useful in two ways:

1. It gives the judge knowledge of the previous crime history. Such a history serves as a guide in determining what 'tariff' will be imposed. This basis for sentencing operates on the accepted notion that increasing or continuously illegal behaviour calls for increasing punishment.
2. It gives the probation officer some data which can aid in his diagnosis of problem areas and prediction of future behaviour.
3. It can be used for institutional classification.

With reference to (2) above, an officer could gain the following from a previous record:

Types of Offences:

- . situations and stresses which result in the offences.
- . the extent to which these situations/stresses are ongoing

Attitude to Record:

- . level of understanding and insight the offender shows with respect to his behaviour and the underlying problems
- . degree of shame or guilt

Implications for Future Behaviour:

- . degree to which offender has the ability or can develop the ability to control the stresses or restrain himself
- . degree of motivation for getting help
- . previous treatment and responses
- . resources or means available to deal with problems (or avoid the circumstances which lead to crime)
- . effect of prolonged or intermittent incarceration on personal coping.

Typical Questions for Initial Probing

1. What can you tell me about your record?
2. How have you become involved in these offences?
3. How do you feel about it?
4. Do you regard these (offences, problems, etc.) as important?
5. Do you feel that your record/problems/time in jail have affected your family life, employment, etc.

The importance of previous record was confirmed by the POAO Study which indicated that 82% of judges felt that knowledge of previous record was essential. Probation and Parole Branch policy allows for the inclusion of "details of previous record" in a PSR, and is compatible with the legal branch's opinion that:

"The existence of a criminal record, the dates of the convictions, and the crime committed could be validly included in a report."¹

Many probation officers feel that disclosure of a previous record should not be part of the PSR and that it is the Crown's responsibility to bring this evidence to the court's attention. This should not mean that a person preparing a PSR should ignore learning totally about the record, for by doing so, he loses out on the importance of the record as clues into underlying problems. Perry's study of PSRs in England revealed that many probation officers had little knowledge of the previous record in preparing their reports and that for the most part they accepted the situation without question.

Perry asks:

"Are they really in a position to advise the court as to sentence if they are hazy about the actual offence and do not have any idea of the extent of the offender's previous law-breaking?"²

Although Perry recognizes the difficulties in securing information, on previous records, he nonetheless concludes:

¹Dombek & Chitra, p. 232.

²Perry, p. 30.

"... if they (P.O.s) took the time to contact the police, the evidence is that they would be significantly helped in their understanding of the case."

It is apparent that the credibility of a report is sometimes jeopardized by the failure of recommendations and assessments to take into consideration the reality of a lengthy record. Occasionally judges are reluctant to follow the conclusions and recommendations of PSRs in such instances.¹ Their concern was not due to the failure of P.O.s to include the previous record in the report (which is not their job), but rather to their inability to ascertain whether the P.O., in recommending probation, was aware of the previous record.

It may therefore be recommended that even where the P.O. is only able to obtain a partial perception of the previous record, that he relate what he knows, or doesn't know, in the report, so that at least the judge and defence are aware on what grounds the recommendations and assessment have been based. It may also be helpful to indicate who the source of the information was, e.g. police, offender's recollection, probation files.

Reporting Previous Probation & Parole Experience

The POAO Study showed that almost all the judges and P.O.s feel that previous probation and parole experience should be reported, and this is reflected in Ministry policy. Patterns of behaviour are often predictable, and the history of chronic disasters on probation helps provide some realistic idea of what may recur.²

Such predictions should be based on a careful analysis to determine whether there have been any changes in the offender's situation; attitude and problem-solving ability. Features of previous probation and parole experience which can be considered:

- . length(s) of previous supervision/types of conditions
- . offender's attitude towards supervision and relationship with P.O.
- . offender's attitude towards supervision and relationship with P.O.
- . offender's degree of compliance with conditions and whether there were new offences while on probation

¹In the writer's capacity as a court liaison officer from 1977-79, there were a number of cases in which various judges expressed their concern regarding this particular issue. See also Dombek and Chitra, p. 234.

²The Chapter . . . "Finding a Suitable Recommendation" includes a more comprehensive discussion on the issue of recommending probation in a PSR.

- . overall rating of whether supervision had any positive impact or outcome.

Juvenile Record

Inclusion of a juvenile record in a PSR has always been a touchy issue. Dombek and Chitra address this issue:

"It is the position of the Ontario Court of Appeal that juvenile delinquencies do not constitute a juvenile as previous offender, but it is extremely useful to know whether the accused has been in trouble as a juvenile, and if so, over what period of time. The court also indicated that information as to the rehabilitation measures employed and the juvenile's response to them should be included in the report."¹

The relevant Ministry policy states that:

". . . details leading to previous supervision as a juvenile should not be referred to unless specifically requested by the Court. Mention of the offender's behaviour while a supervised juvenile is permissible."²

Presentence report authors should also be aware of the Supreme Court of Canada decision in Morris v. The Queen, in which the court ruled that an adult accused can be cross examined under section 12 of the Canada Evidence Act with respect to his juvenile record.

¹Dombek & Chitra, p. 234.

²Probation & Parole Manual

Reporting Offence Details

According to Ministry policy, only concise and factual details of the offence can be included in the PSR, and only where required by local policy. This implies that only the type of information permissible would be restricted to the type of offence, and the date and place where the offence took place., e.g.

"The offence involves two counts of Break, Enter and Theft which occurred in two private dwellings in Toronto on September 4th and September 8th, 1980."

Arising as an issue is the occasional tendency to include the offender's version of the crime and/or the probation officers impressions of the facts or circumstances of the offence. A major concern is that this could bring up information which was not brought forth as evidence during the trial. Professor Graham Parker cautions that such details,

"... may implicate other persons who may or may not be accomplices who are already convicted, charged or perhaps not even apprehended. The story of the offence may also give a version of the facts which may implicate the accomplice in hitherto unknown ways."¹

Reporting other than the official factual comments has also been the subject of appeal court review on a number of occasions. In R. v Rudyk,² the Nova Scotia Supreme Court advised that a PSR

"... should not, however, contain the investigator's impressions of the facts relating to the offences charged, whether based on information received from the accused, the police and other witnesses and whether favourable or unfavourable to the accused."

¹Graham Parker, "The Law of Probation", Canadian Journal of Criminology and Corrections, Vol. 19, No. 1 (1977), p. 106.

²(1978), I.C.R. (3d) 5.26

This does not mean that a probation officer cannot study the background of the offences and subsequently report on the offender's attitude, and the various personal dynamics which has arisen out of a study of the offence and criminal record. Since these observations add depth to the portrait of the offender's strengths and weaknesses, they can be discussed later in the report along with other relevant personality details. However it should be again stressed that the accused's account of the offence should not be included in the report.

There will be occasions when the offender will deny the facts upon which the court has made its judgement. Rather than making his own extra-judicial inquiry it may be a better idea to simply report to the court to the effect that "the offender refuses to accept responsibility for the offence," or "refuses to accept the facts of the case as determined by the court." Such a disclosure does not challenge the court's evidence, but merely expresses how the offender feels about it. This leaves the court, or the offender and his lawyer free to delve into this issue during the pre-sentence submission if they so wish. Should there be mitigating circumstances which are favourable to the offender, here too, it is up to the offender and his lawyer to relate these matters to the court prior to sentence being imposed.

Examples

The following examples indicate how a study of the past and present offences can be incorporated into a PSR.

1. "The subject appears to be genuinely remorseful over his involvement in the present offence. He relates that it was a "stupid" thing to do and he appears to accept the responsibility for his actions. According to Sgt. R. Fenwick, the offender was co-operative in the investigation. He further adds that he feels the offence was not part of a pattern of irresponsibility, but may have been more of an instance of poor judgement."
2. "The subject's involvement in the present offence (Mischief: vandalism) can be compared to similar previous incidents. This pattern of behaviour which expresses itself in destructive acts against property periodically may have something to do with David's inability to control his rage and emotions within limits. He indicated that just prior to the present offence, he had been all "worked up" about his stepfather's ill treatment of his mother. His aunt, who is also a social worker, stated that David's outbursts of rage seem to be triggered by incidents arising out of the poor relationship which he has with his stepfather . . ."

The following involves a disturbed 17 year old, convicted on charges of rape and attempted rape:

"In talking about the offences, the subject related what he had done in the same mechanical and unemotional tone which characterized the whole interview. There appears to be little remorse evident. When questioned about his feelings surrounding the events, he stated: "I just can't work myself up to feeling concerned about them (the victims) . . . they are all just faceless people." He stated that it worries him that he cannot feel regret, and hopes that he would be able to receive treatment for whatever "makes me do this." Sergeant D. Yeandle of the Metropolitan Toronto Police stated that "P. seemed quite detached from what had taken place and showed no pity for the victims . . ."

Exercises

Exercise 1)

Read the following extract from PSR interview with an offender, and then respond to the questions which follow.

Tell me about what happened?

"I was drinking with a couple of buddies at the hotel. We were getting pretty drunk, and one of the guys mentioned he knew of a factory where the lock was broken. Before we knew it, we were all in there, I had only taken a few things before the cops showed up and busted us."

Did you feel any reluctance in going along "with the guys"?

Well, I knew it was wrong, but I wasn't thinking much. I know I wouldn't have done it if I was sober."

This is the third time you've gotten into trouble. Were you also drinking before the previous B & E's?

"Yeah, I guess so. None of them were really planned. We were pretty stupid I guess, cause we got caught every time."

Have you always done the B & E's in the company of other friends?

"Well, yeah, it's always happened after partying."

Do you spend most of your time at the hotel?

"Yes, I'm usually down there about 3 or 4 times a week."

Do you always get drunk?

"Not always."

You said this will be the "last time." What makes you think that it won't happen again?

"Well, I don't want to go to jail. I know it won't happen any more."

Do you think alcohol might be part of the problem?

"Not really. I can handle my booze most of the time. I like it, and don't think I drink too much."

DISCUSSION QUESTIONS:

1. On the basis of what you've read, what would you conclude about the offender's situation, habits, attitude?
2. What additional questions might you ask the offender?
3. Who else would you interview? What other information would you be interested in?

Exercise 2)

Read the following extracts and complete the exercise below:

Police

We arrived at the warehouse at 1:30 a.m. as a result of a complaint about noise. We investigated and found the accused and his companion hiding under a staircase. They had broken a door latch and entered the warehouse. We found a number of articles in their possession including 5 watches and a calculator, valued at \$285. We arrested them both, took them to the station. The accused was frightened, and upset, but co-operative in the investigation.

He was mildly drunk; apparently he had been drinking with the co-accused in a tavern prior to the B. & E. His friend seemed to be the 'leader', but the accused knew perfectly what he was doing and shared responsibility.

He is unknown to us. No previous contact with police. He was quite upset that his parents would find out. We went to the home to search for other goods - nice home; concerned parents.

Offender

I had been drinking with a friend. We had about 5 or 6 beers and were high, but not drunk. We were driving home and saw the warehouse and decided it would be a good idea to see what was inside. So we broke the door and went in. We weren't inside for 10 minutes when the police arrived.

What a stupid thing to do! It seems so stupid now; I don't know why we did it.

I know I am responsible - but I don't think I would have done it if I was sober.

I don't drink too much. Sometimes I get drunk, but I've never done anything like this before. I'll never get into anything dumb like this again.

Based on the above versions, write a paragraph which evaluates the offender's behaviour. Indicate which of the factors you would consider important (e.g. premeditation, self-control, attitude, sense of responsibility, etc.) in formulating your findings.

V. FAMILY BACKGROUND

If we are at all to develop an understanding of a person, as he presents himself today, we have to consider what happened yesterday. A study of a person's background can cast light on the reasons why he adopts certain attitudes to life and people. This diagnostic approach will provide an accounting of the strengths and weaknesses of an individual. Knowledge of these qualities will help provide some ideas as to whether a person would be amenable to supervision or counselling, and what personal values have been formed which may affect his setting of personal, and vocational goals. Factors which contribute towards a personal development would include the nature of the parental home - the nature of family ties, the degree of physical and emotional support, the influence of family and peers, etc. In addition, the wider community can be viewed as an influencing factor in personal development. The nature of the housing, the economic and social climate of the neighbourhood may also have bearing on social and leisure habits of the offender.

It can be seen therefore that the exercise of examining the offender's background:

"... is not a mere recital of facts, but a search for strengths and liabilities in the personality of an offender that can be utilised in sentencing/supervision/treatment decisions about that offender. Like a prospector panning for gold, the officer may sift a quantity of routine information, searching for nuggets that may illuminate the life of an offender more clearly. Like the prospector he must be prepared to be disappointed when nothing but dross appears in his investigation.¹

One way to approach the study of family background is to focus the data collection within three areas: (1) Family history and structure; (2) Influence of home and neighbourhood and (3) Parental influence. Family history deals with the historical elements - i.e. where the family comes from, who married whom, who is in the family and so on. Influence of the

¹Mills, p. 81.

home and neighbourhood looks at the physical, economic and social climate of the home and neighbourhood, while the third area, parental influence, is concerned with the human climate of the home, as determined by the personalities, roles, values and habits of the family members. The division of the content into these areas is only a means of organizing the guide's discussion, and is not a suggestion that these concerns be actually separated in prose. In fact, a good informative section on family background is one which interweaves the information from each of these areas.

FAMILY HISTORY AND STRUCTURE

It may sometimes happen that two-thirds of the way through a PSR interview, after an exhaustive discussion on the offender's relationship with his parents, that the offender happens to casually remark: "yeah, but my mother remarried two years ago." all of a sudden the P.O. discovers that the father they have been talking about has only been "in the picture" for about two years, and is in fact the subject's stepfather. One way to avoid last minute revelations of this sort is to develop at the outset of the investigation an organized collection of the facts pertaining to family history. A family-tree style fill-in-the-blanks approach might be useful:

Parents

natural father _____

natural mother _____

born _____ where _____

born _____ where _____

parents met (when) _____

where _____

married, or c/l when _____

where _____

Children:

Offender:

_____ age _____ at home? _____

birth (adoption) when _____

_____ age _____ at home? _____

where _____

_____ age _____ at home? _____

_____ age _____ at home? _____

Family changes:

Step-children, half-sisters, brothers,
etc.

(separations, divorces, new mates)

1. what _____

when(who) _____

results: _____

Geographic moves: (times, places)

2. _____

Present residence how long? _____

Home and Neighbourhood

Poverty, unemployment, bad housing, and overcrowding can influence a client's behaviour and choice of lifestyle. In addition the nature of the community, and the mobility of the family may have resulted in changes, which have tested the readjustment capacities of those involved. A neighbourhood which is characterised by high crime, high mobility and little in the view of solid social ties between its members may provide less support than one in which the members have a strong sense of group and family identity. The inquiry benefits if it is able to analyse these variables, and then remark on the responses of the offender to these factors:

Items for the investigator to consider include:

- description of home and neighbourhood
(overcrowded, furnishings and amenities, characteristics of neighbourhood re: crime/employment/housing/parks, etc.)
- Influences of neighbourhood
(nature of social ties; habits and lifestyle¹ of inhabitants; social pressures)

Mills cautions the correctional investigator not to immediately see delinquency and criminal behaviour as a direct product of social and economically deprived background. It may be that there is greater statistical probability of delinquent behaviour in lower socio-economic climates, but,

" . . probabilities are not facts; the investigating officer must check out the offender and the supportive influences that may "immunize" the offender from criminal temptations . . . our slums are a battleground between pro- and anti- criminal values, and no assumptions should be made without checking."²

¹ social habits; - spending patterns, recreation and drinking habits, etc.

² Mills, p. 92.

FAMILY AND PERSONAL BACKGROUND

Influence of the Home

What kind of values do the parents have? Is this an immigrant family in which respect towards parents, hard work, and security, are cherished values? Is the father considered the breadwinner, decision-maker and disciplinarian? As a result is discipline strict and demanding? Or is this the case of a middle-class metropolitan family where the handling of problems and decision-making is shared between both parents? What about the family's bonds and social habits? Is the family close-knit and are the members involved closely together in their leisure? Is there considerable affection and attention spread around, or is it a somewhat non-nuclear unit, where members tend to be autonomous? Are communication and affection lacking? Is discipline consistent?

These questions are meant to illustrate that the combination of parental values, expectations, and roles can be endless. Also, how these various values and roles are acted out can have significant impact on the way a person develops. However, whether a particular parental style or habit will be a source of support, or a source of problems for a person will also depend on the particular strengths that each person may come equipped with. Some research has shown that different members of the same family, even though they may be subjected to the same deprivations, may develop in entirely different ways.¹

Personal development can be viewed then as a transaction between that person and his environment.

¹Mills, p. 82.

Some suggested areas of home environment which the investigator can examine can include:

Parental Values and Expectations

What are the predominant values of the parents? What expectations do they seem to have for their children? Has the offender assimilated these values, or has there been a clash?

Parental Discipline

Who disciplines? Is it shared, or does one parent "run the show?" Is discipline consistent, harsh, lenient? What has been its effect: has it fostered healthy independence? Is the child overprotected? How has the subject responded to discipline?

Affection and Communication

Is the family close-knit? Are the emotional bonds between members strong and healthy? Are people free to discuss problems and express themselves? Has there been adequate attention paid to all children, or have there been preferences?

Personalities, Habits, Lifestyles

What kind of people are the parents? Are leisure habits healthy? Is there drinking, and to what extent? What personality characteristics do the parents have that have affected relationships and climate within the home?

Parental Attitudes and Perceptions

What attitude do the parents have towards the offence? Are they protective, supportive, antagonistic? What are their perceptions of the offender's (and the family's) problems? Do these perceptions seem realistic?

Family Problems, etc.

What have been the other problems and crises within the family? Have there been marital problems, financial problems, medical problems, etc.? How has the family weathered the crises, and what effect has this had on the offender? To what extent can devotion to family/marital responsibilities act as a stabilizer for the offender?

HABITS TO BE WARY OF

Some offenders may tend to purposely distort the reality in order to provide a rosy picture for the P.S.R. By dwelling on the tales of woe . . . broken families, poverty, drug and alcohol problems, the manipulator is able to divert attention away from personal responsibility, and towards a sympathetic recognition of the circumstances that "caused him to be the way he is". Mills recommends that the careful investigator should cultivate a degree of skepticism regarding glib recitals of background information that fit rather conveniently into the various psychological and sociological explanations of behaviour. Again, the investigator is drawn back to the importance of evaluating the "source" and "sampling" in order to get an accurate picture.

A person's family relationships (mother-son, etc.) are often made of stuff that's close to the heart. When a person has no one else to go to in the world for acceptance, he may still be able to go to his mother. Despite the presence of negative behaviour and problems, family ties will make it difficult for people to see their parents (or their son or daughter) in less than positive terms. "A mother's son can do no wrong" is an expression that often finds reality during the P.S.R. interview. Likewise, an offender's perception of his own home life may be subject to distortion, which may arise out of an inner desire to avoid the conflicts and guilt feelings created within the family relationships.

REPORTING FAMILY BACKGROUND

One of the difficulties in writing up sections on family background or home environment is that it is often difficult to sift through all the information and distinguish the important from the trivial. This difficulty is not alleviated by the notion that the judge needs to know everything about an offender, including how old his sisters are and how many children they now have. This has sometimes led to descriptions of Dickensian proportions. In his selection of what material to include, the officer may be helped by the rule which distinguishes "is this what the judge should know, or an item which is nice to know?" The challenge for the report writer is that he be able to assess his information in terms of the effect it may have had on the offender. Consider the following examples:

FAMILY BACKGROUND NO. 1

David was born on June 5, 1961 in New Scotland, a small town approximately 10 miles from Brantford. His parents, Ralph and Mary Smith, were married in 1960 in Collingwood. Mr. Smith, 46, owns and operates "Dave's Transport," a small bus company. Prior to this, he was a mechanic at a garage for nine years, and worked at a variety of jobs since his arrival in Canada in 1945. His wife, Mary, is 44 years old, and like her husband emigrated to Canada at a young age. She works as a housewife, but for a number of years after her marriage worked at a glass factory in Collingwood.

The subject is the fourth child in a sibline of six. His siblings are: June 18, living common-law in Milton, and she has one child; George, 16, lives at home and attends high school; Fred, 17, lives and works in Toronto; the subject; Jennifer, 12, living at home, and Jonathan, 10, also at home.

It appears that the family is close and supportive. David and his father have developed quite a close relationship; the offender has, for several years, helped his father with his company.

FAMILY BACKGROUND NO. 2

David's parents, Ralph and Mary Smith have been married for 20 years. After their marriage, they relocated in New Scotland, a small rural farm community, where, in 1961 the subject was born. There are six children in the Smith family, and range in age from 10 to 18 years of age. Three of the Smith children including the subject, live at home. For the past seven years Mr. Smith, 46, has

owned and operated a small bus company. His wife, Mary, 44 has been a housewife for most of her married life.

It appears that family life is close-knit and supportive. Both parents seem to be hardworking individuals who seem most interested in their son's welfare. According to Mrs. Esther Rollins, the subject's aunt, all the Smith children are treated equally by the parents, and that discipline is reasonable and consistent. The subject appears to enjoy a close relationship with the other siblings, although he seems to be closer to his father, with whom he shares a number of interests.

The Smiths indicate that, with the exception of David's involvement in the present offence, his behaviour has been acceptable and his social relationships are healthy. The family has occupied the same 6 bedroom home since their arrival in Milton 10 years ago. These premises are clean and well furnished, and are located in a fairly prosperous residential area of the town.

In both these reports, the P.O. could conclude that there do not appear to be any significant problems in the home, and that, in the home environment at least, there is no cause for alarm. However, in Family Background No. 1, the "story" is profuse with data on names, ages, dates, but somewhat skimpy in items of solid information - attitudes, relationships, parental roles and influences, etc. Sample No. 2, focuses in on the family dynamics, and although it has not ignored the "details" (ages, dates, etc.) it has reduced this information to a form which recognizes its lower importance in terms of the impact on the offender.

The samples provided above provides an example where all is "in order" at the Smith home. Analysis of the information is more difficult when the investigator comes face to face with a home background beleagued by problems. Here the challenge of creating a good narrative becomes one of being able to make the connections. Again, the task is made easier if the the investigator asks himself; "What is the meaning of this piece of information?" How does it play a role in the offender's functioning? To what extent has it inhibited (or enhanced) his social development?" Consider the following example, where the investigator has attempted to isolate key items:

Mrs. Jones appears to have been a very strict and over-protective mother, whose control over John amounts to what Mrs. Peach described as "house arrest." Mrs. Jones admitted that she has been overly strict with John, stating that she "wanted to keep him like a little child, . . . and not lose control." It would appear that Mrs. Jones' style of upbringing discouraged a normal socialisation process for John. He was never allowed out after dark, and was discouraged from playing with other children his age.

John has never been able to develop meaningful relationships with either of his parents. His father has tended to be a passive person who, because of his total subordination to his wife never provided a strong, independent father figure for John. Indeed, because Mr. Jones has worked an evening shift for the past nine years, the personal contact between him and his son has been minimal.

VI. EDUCATION

School provides a major training ground for young people in adapting to community life. Intellectual growth is but one of the products of the educational process. The learning of social values and the development of relationships, are formed through the challenge of living under the social controls and structure of the school setting. Skills, knowledge, attitudes, values and general behaviour, as well as marketability in the labour force are all items which can be determined through a thoughtful analysis of educational background.

SKILLS	. subjects taken
KNOWLEDGE	. academic performance
"MARKETABILITY"	. degrees/diplomas obtained
ATTITUDES	. attendance
VALUES	. relations with peers
BEHAVIOUR	. relations with school officials: response to supervision and discipline

In addition to some of the more obvious questions such as those concerning academic performance, there are a number of questions which tend to focus more on the offender's personal growth:

1. Were there (are there) any learning problems?
(reading, writing skills, perceptual handicaps, motor co-ordination)
2. How did/do these problems affect his relationships? Self-concept?
(positive self-image? disillusioned? frustrated?)
3. How does/did he relate to his peers?
(normal relationships? a loner? leader? follower?)
4. How did/does he relate to his teachers?
(responds to controls and authority?)
5. How can one rate his overall behaviour?
(excellent, good, disruptive, destructive?)
6. What skills and knowledge represent future potential?

Some of the inquiry into the educational history of an individual can tell us as much about other people as it does about the person under scrutiny. For example, we may find out that the parents showed total indifference to their child's misbehaviour in school, and had little interest in his vocational

pursuits. An investigator can get an idea of how discipline problems were handled by the school and the parents.

Questions which delve at an understanding of the home front behind the educational experience include:

1. Did the parents know about the attendance (or behavioural) problems?
2. How did the parent(s) handle the attendance problems?
3. To what extent did the family agree to discuss problems at school?
4. What have the family's expectations been in terms of academic accomplishments?
5. Is there an older or younger brother/sister at the same school?
 - a. If so how did they manage?
 - b. Were there any differences in the parent's (or school's) attitude with the other children.

EXERCISE

Read the follow PSR interview dialogues and answer the questions which follow.

Offender:

I never liked school; quit last year half way through grade 9. It was too hard; I always had trouble doing the work. I never felt like doing homework. I did like the shop classes, and always managed to do well, but English and Sciences were terrible . . . it was so boring. I fooled around a bit, not much. Missed pretty frequently the last year or so. I got along with most of the teachers; no real problems, except for my Math teacher. He constantly picked on me, so I bugged him. I'm not interested in going back.

Vice-Principal:

J. finished half of grade 9 before quitting. Took a general course, mixed humanities and sciences. His average in grade 8 was 57% and according to his teachers, he would have had difficulty in passing Grade 9. His best courses were shop - 75% in grade 8, the worst performance was in the humanities - less than 50% in English, History and Social Sciences. Although he was not an overly disruptive student, however, he was somewhat easily distracted from his work, and tended sometimes to be a nuisance, but usually only in the company of some of the older students. He was suspended several times in Grades 8 and 9 over minor incidents, not serious problems. Most of his teachers indicate that he is a slightly immature but not totally irresponsible. He seemed on the whole to be quite unmotivated in his learning, although there is some good potential for perhaps a manual trade, because of his positive shop experience.

Parents:

J. never did well. He just didn't seem to be interested in schoolwork, although he did very well in mechanics, and in fact is regarded by his friends as a real pro when it comes to working with his hands. Mr. P., his shop teacher, felt that J. would have good possibilities in an apprenticeship, and was one of the best lads in his class. Other than that, making him study was an impossible task. We would like to see him go back to school, but he is dead set against it.

1. Based on the above dialogue, write a paragraph on J's educational background.
2. Is there additional information which you feel might have been useful? If so, what? From whom?

EMPLOYMENT

General Remarks:

Work history is an important reflection of an offender's social values, relationships and vocational aptitudes. The ability to financially support oneself and to provide for others through meaningful labour can be a positive support for a person's ego and self-concept. Problems in employment often mean problems in other areas as well, and a person's chronic inability to retain long-term employment can reveal something about him as a person, and can often be seen as providing an incentive to crime.

Seeking the Information:

A logical place for the investigator to start is with the current work situation, and then work backward in time to cover previous employment history. However, if the interview is following a chronological approach, one can start just as easily with the first job and work forward through time. Whichever approach is adopted, areas of interest might include:

- | | | | |
|--|--|---|--|
| Previous
History | (| . Previous employers | |
| | (| . Nature of previous jobs: | tasks, responsibilities,
promotions |
| | (| . Duration of each job | |
| | (| . Reasons for quitting, dismissal | |
| | (| . Attitudes towards previous jobs | |
| Current
History
&
Past
History | (| . Current employment | |
| | (| . Description of job | |
| | (| . Length of time on job | |
| | (| . Rate of pay | |
| | (| . Promotions, disciplinary actions | |
| | (| . Relationships with fellow-worker/supervisor | |
| | (| . Attitude toward job | |
| (| . Is employer aware? If so, what is his attitude? | | |
| (| . Nature of employment search (organized?,
haphazard? etc.) | | |

Details about employment can be secured, through interviewing not only the offender, but also previous employers, spouses and manpower or welfare counsellors. People with poor work records will often try to make the best impression, by evading gaps, glossing over problems, and blaming others (or the "system") for their deficient job history. The investigator should be aware that even where a person has unsuccessfully made legitimate efforts to find work, the stigma of being unemployed may encourage him to be vague or evasive with respect to job history. The

investigator should be careful not to prejudge a person because he or she is unemployed. Rather than moralizing, the writer should attempt to isolate the work patterns, in a manner which illuminates and explains.

Consider the statement:

"He appears to have an irregular pattern of unskilled employment"

Statements such as this provide a limited insight into a person's work history. This particular person may be living in an area where no one has been provided the opportunity of developing advanced skills, and where the work is largely seasonal. Although the reader of this statement may correctly assess the situation, he could just as easily infer that the subject's motivation to work or attempt to improve his skills is "irregular". In addition, the investigator should be aware that the gaps and omissions may be significant. They may represent periods of imprisonment, psychiatric or medical illness or drinking sprees. Discrepancies should be investigated and explained.

In cases where contacting an employer could jeopardize an offender's job, the PO could verify employment through pay slips, T-4 income tax receipts, or through contacting a source within the company, such as a sympathetic foreman, or fellow worker.

Patterns of Employment

There are a number of patterns of employment¹ which may become apparent in assessing a work summary. Mills describes a number of these patterns which the correctional investigator should be aware of:²

1. "Normal" pattern:

A series of employment experiences which moves towards increasing responsibilities, more developed skills, and increasing income. Job shifts represent career planning and job enhancement.

¹Reporting on the 'pattern of employment' was seen as crucial information by over 96% of Judges surveyed for the POAO Study in 1975.

²Mills, p. 107.

2. **Horizontal pattern:**

A more sporadic pattern is one in which lateral moves are frequent from one relatively unskilled job to another. Lack of motivation for work, disputes with supervisors, absenteeism and dissatisfaction with conditions of employment are often characteristic of such a pattern. Job changes are expedient or impulsive. A prolonged pattern of this kind may indicate serious attitude problems in adjusting to work discipline.

3. **Downward pattern:**

This type of pattern is characterized by increasing periods of unemployment, frequent job changes, and a downward movement from jobs of high responsibility to those requiring less responsibility and skill. Such a regressive pattern may reflect alcoholism, or drug abuse, poor mental or physical health, or family pressures and stresses. In the older worker who has lost a job of long-standing due to alcoholism for example, the inability to find work, combined with the continuing problems which led to drinking can make for a person low in self-worth and high in depression.

4. **Economic circumstances**

In many economically deprived areas, a good job is any job, and the typical work patterns may reflect seasonal economic conditions. Limited job opportunities in a particular area (e.g. fishing, wood-cutting, trapping) as well as the unavailability of training or educational opportunities, may result in a relatively fixed pattern of frequent job changes of an unskilled nature.

Some Underlying Factors in an Employment Problem

- . family disorganization
- . emotional instability
- . low motivation
- . low self-esteem
- . physical or intellectual handicaps
- . lack of training, education, skills
- . economic conditions/discrimination

EXERCISE

Read the following data, and then answer question #1.

Name of Accused: Robert Crumblestick

Job History:

Jan - Feb '79	ABC Tools Inc. shipper, \$3.50/hr. Quit because he didn't like work conditions.
May - July '79	Crosswell Tubing Ltd. \$3.80/hr - shipper Quit - did not like the hours. Supervisor: Mr. J. Smith
Sept - Oct '79	Britain Store Supplies Ltd. clerk, \$3.75/hr Fired: "Boss said I came in late, but it was because of the poor public transit connections." Supervisor: Mr. C. Billings
Feb 80 -	2 weeks. Dundee Dairies Ltd. shipper, \$4.10/hr. Quit. Supervisor: Mr. B. Lawson

Other Information:

Offender states that he has been maintained on welfare and unemployment insurance during periods of unemployment. He states that he is making good efforts to find a job.

Mr. B. Lawson: "He was never punctual, and occasionally arrived drunk at work (he worked the evening shift). He was lazy . . I was glad when he quit."

Age: 18

Education:

Grade 10. Quit school 2 months prior to first job.
Attended a general 'shop' programme at high school.

1. Based on the information provided, write up the 'employment' section on the accused.
2. What conclusions would you make about Robert's employment situation?
3. Is there any further information or background you would have sought? If so, what information and who would you interview?
4. Did you find it necessary to report all the jobs, with dates, etc. or did you find that these could be summarized?

VII. LEISURE ACTIVITIES

Leisure-time activities¹ are often treated by PSR writers as unimportant and as a result there is a tendency to overlook the whole topic. However, what a person chooses² to do in leisure can be a key to furthering the understanding of a person's lifestyle. Through careful examination, an artful investigator can get a glimpse into a wide range of human attributes, - skills, interests, habits, social interaction patterns. The "who, what, when and where" of recreational activities can lead to the following interpretative data:

What does a person do?

1. Answers to this question open up a window into a person's interests and skills. Discovering these may help provide a useful basis of goal-setting and vocational planning.
2. What a person does may be a reflection or symptom of how he manages elsewhere. Heavy drinking and spending a great deal of time away from home may be connected to personal or family problems. It may also have been responsible for triggering off the offence. Quite often it has been the unproductive use of leisure time (alcohol binge, for example) that has led to the trouble with the court.

Who, What, When and Where?

A teenager who spends most of his time listlessly hanging around with friends at a shopping centre until late hours during the school week might be indicative of the kind of supervision and support he receives from his family. The choice of what and how he spends his available time may also be related to the ability to form satisfying recreational goals. The type of values a person holds in regard may be evidenced by membership in various

¹ 54% of judges in POAO study felt that information on leisure time was essential.

² Leisure time, is probably more representative of what a person wants to do rather than what they are forced or pressured to do.

³ See p.41, re: "present offence"

clubs or organizations. In addition, people often 'volunteer' in order to meet certain basic personal needs. A woman who has the need for social contacts may volunteer for hospital visiting to fill her own social needs as well as the needs of those she is serving. Another person may associate himself with a club or a certain type of volunteer work as a means of gaining recognition or esteem.

Questions which help focus on leisure pursuits include:

1. What are the interests/hobbies/sports/activities?
2. What is the degree of involvement with people? (leader? follower? who are the companions?)
3. What associations, clubs and organizations does the offender belong to? What are the predominant values expressed by membership in these clubs?
4. Are there any problem areas connected to leisure activities? (e.g. excessive drinking? gambling? impact on family - e.g. spending too much time away from home)
5. In what ways do the interests and skills represent strengths for future development?

FINANCIAL MANAGEMENT

A look at a person's financial management involves more than just an inquiry into how he saves and spends money. In some cases the origins of shoplifting, fraud, and forgery are economic and may be closely associated with a person's inability to fiscally manage or plan. In many cases however, the association between financial management and the offence in question is part of a larger cycle of social or psychological problems. Budget counsellors report that people with severe debt problems often experience problems in other areas, such as marital relations, employment and alcoholism. In some cases the linear progression is apparent (loss of income -> debts -> marital problems), but in others, the problems have become so interrelated that trying to analyze causes becomes lost in a chicken-and-egg argument.

Whether financial management is seen to be sound or problematic, the investigator can nonetheless draw conclusions about a number of habits and behaviours. Some of these include:

1. **ability to plan**

...is the offender able to plan his finances realistically?

2. **goal setting**

is the offender able to hold off spending for future gratification, or is there a tendency to impulsive spending?

3. **aptitude/intelligence**

is the offender capable of spending soundly, or has he adopted habits which his income cannot support?

4. **problems**

has poor financial handling affected relationships, lifestyle, etc.?

In addition to the client's view of his financial management status, the following items also indicate the existence of a problem:

- . number of residence changes (...eviction for non-payment of rent)
- . Prior garnishment or bankruptcy
- . employment pattern
- . income vs. expenditure information
- . a discrepancy between stated income and standard of living
- . personal habits - gambling, drinking, expensive meals
- . evasiveness in responding to telephone calls from "strangers" (characteristic habits of dodging creditors)
- . avoiding registered letters (also a standard collection agency dodge)
- . direct information from creditors or spouse

Possible Questions:

1. Do you have any debts?
(get details)
2. How do you feel you have managed your money?
(How have these problems come about?)
3. Have you sought any assistance?
4. Have the financial problems caused problems in other areas?

HEALTH

A person's physical health may be important, because health problems can affect a person's whole life. Items of interest can include:

- . subject's statements regarding his or her health
- . gaps in employment, education
- . previous contacts with doctors, psychologists, psychiatrists
- . use of medication
- . apparent physical appearance and existence of physical defects
- . hospitalizations
- . nutrition habits

Where health problems are in evidence, the investigator should inquire into the possible impact this may have had on education, employment, inter-personal relationships, self-concept, and so on.

Some typical questions to ask may be:

1. How would you rate your present health?
2. Have you had any serious illnesses or accidents in the past?
3. Have these health problems affected your job? family?
4. Are you presently taking any specific medication, and/or do you suffer from any particular allergies?

If health has not been a problem, a simple statement such as "George reports that his health is excellent" is sufficient. In cases where health has been a problem, the writer can elaborate on the details under the particular heading where poor health has made an impact. For example, the following statement might best fit under the heading of employment:

"George's numerous allergies have made it difficult for him to find work in his home town, where industry is predominantly chemical manufacturing."

VIII. EMOTIONAL HEALTH AND PERSONALITY

EMOTIONAL HEALTH

The way we feel has an effect on the way we behave. Emotional and physical conditions affect the way people approach relationships or situations, and cope with the burdens of life in general. Although the P.O. is not a doctor or psychiatrist, and has to be wary of interpreting emotional health, there is nonetheless a need that he be sensitive to and observe deviations from the norm.

Emotions: Characteristics To Look For

The primary emotions which cause problems are anger, fear, guilt, anxiety and grief. These states are often expressed inwards (internalized) or outwards (acting-out). In corrections, there are four major categories of instability which probation and parole officers encounter.

These are:

1. Depression
2. Anxiety
3. Acting-out behaviour
4. Volatile situations

1. Depression: Characteristics

A. Mild-Moderate Depression

- . loneliness
- . hopelessness
- . isolation and withdrawal from social contact
- . self-recrimination and guilt
- . feelings of worthlessness
- . low self-esteem
- . pessimism
- . lack of energy
- . boredom
- . somatic complaints
- . irritability, moodiness

B. Severe Depression

The same characteristics under mild and moderate depression appear in severe depression, but in a more pronounced form with the following additional characteristics,

- . reality contact remarkably impaired
- . disturbances in thinking - delusions
(usually with feelings that delusional events are justified, "I am so bad" etc.)
- . little insight into the nature of his behaviour
- . thoughts, threats or attempts at suicide

2. Characteristics of Anxiety

A person suffering from anxiety may become involved in attention-seeking behaviour and "cries for help" (the same is true for depression).

- . state of tension
- . restlessness and uneasiness
- . generalized irritability
- . difficulty in concentrating and making decisions
- . fear of making mistakes
- . occasional insomnia
- . constant state of alarm and mobilisation

3. Characteristics of Acting-Out Behaviours

- . inadequate conscience development
- . lack of anxiety or guilt
- . inability to profit from mistakes
- . impulsivity
- . irresponsibility
- . low frustration tolerance
- . poor judgment
- . defective social relationships
- . authority problems
- . quickly rationalizes and projects blame on to others

4. Characteristics of Potential Volatile Situations

- . out of control
- . drunkenness/drug-altered state (speed, solvents, 'angel dust')
- . volatile domestic situations
- . extremely low "boiling point"

It is often threatening to approach an offender with a direct line of questioning regarding emotional and mental health. The word 'mental' is quite stigmatic, and will often freeze people into defensive postures. People have their self-images to protect, and a more positive approach at investigation might involve a more indirect manner in which the investigator encourages the offender to describe their work life, social life, their feelings about themselves, etc. Mills recommends:

"One test of the officer's intervening skills is the client's willingness to share his inner life, including fears, inadequacies, depressions, hostility, and problems and social adjustment.

To the extent that such information is shared, it is helpful to ask the offender what efforts have been made to cope with these problems. Any previous efforts to seek vocational guidance, family counselling, personal counselling, or psychiatric treatment should be noted, with the offender's estimate of results obtained. Confirmation should be sought from family members or records whenever possible...."¹

In obtaining medical and psychiatric information, the proper release forms must be used. (See p.). In addition, it is wise to recall Ministry policy which does not permit the P.O. to quote psychiatric information without the signed consent of the offender and the source of information. How therefore can the report writer make use of psychiatric information which contains remarks that would be advantageous for the judge to know, yet damaging for the client to be aware of?

¹Mills, p. 36.

Three possibilities are:

1. The P.O. can avoid mentioning or quoting excerpts from the psychiatric reports, but can include in his pre-sentence submission that such reports are available and the court may wish to obtain such reports directly.
2. The psychiatric information may be included, not as part of the PSR, but rather sent to the judge under a separate cover. The judge can then choose to consider the information and share it with the defence counsel. This procedure may not be accepted practice in some courts, as it may be thought to contravene to the offender's right to disclosure, and may also be construed as a private inquiry between judge and probation officer. This route is therefore not recommended. (See also page 33)
3. Consult with the crown attorney in the case.

PERSONALITY

Although the mention of 'emotional health' tends to make one think of the presence or absence of psychopathology, the particular way a person behaves and responds to his surroundings also depends on the kind of personality characteristics which he has developed. In order to assist in assessing personality, a number of these characteristics are listed for the investigator. The reader may wish to add his own to the list provided.

- . introvert/extrovert
- . level of self-esteem
- . inner directed/outer directed
- . flexible/rigid
- . sensitivity
- . impulsive/cautious
- . control of anger, frustration
- . affectionate/distant
- . _____
- . _____
- . _____

SEX OFFENDERS

The guide has tended not to concern itself with interviewing skills per se, because of the considerable amount of material which can be consulted from other sources. However because there does not seem to be anything detailed which addresses itself specifically to probation officers preparing presentence reports on sex offenders, the guide offers in the following pages, some ideas and concepts which may be useful to the new officer.

Interviewing Sex Offenders

Because of the nature of the offence, probation officers often feel uncomfortable interviewing sex offenders. And, sex offenders feel equally uncomfortable discussing personal and shameful behaviour with a total stranger. In addition, no one really knows very much about the nature of sex offences. As a result, numerous myths and theories have been generated and popularized which, in general, cast the sex offender in the role of "sexual deviate". It is not uncommon, then, for a probation officer to look for or expect sexual problems and abnormalities in the history of the offender. And, not understanding their own behaviour and believing they must have sexual problems, it is not unusual for sex offenders to report past sexual experiences, problems, doubts or fears as possibly being casually related to their crimes. On the other hand, some offenders may deny, shrug off or try to minimize their involvement in the offence. Some may behave strangely or "act out" in some way. What do these various attitudes tell us about the character of the offender? Can we conclude that there is "more than meets the eye" in certain cases? Given that we must gather information about the offender and his character, what is the best line of inquiry to take? Should we look for and report sexual problems? Should our line of inquiry, in general, differ from that used in interviewing other offenders? Finally, how can we make the offender feel comfortable if we are nervous ourselves? In order to answer some of these questions, it is necessary to consider briefly some recent research related to sex offences. This research holds certain implications for the assessment and treatment of sex offenders as well as implications for initial interviewing.

Research

There has been much theorizing about the nature of sex offences but very little in the way of scientific investigation. However, what little

information we do have suggests that sexual offences may be more related to periods of emotional stress (i.e. anger, frustration, depression, upset, etc.) than to sexual or personality problems. For example, there are no personality or projective tests which discriminate sex offenders from non-sex offenders. Sociological research shows that sex offenders are as likely as non-sex offenders to be married, have girlfriends, boyfriends, etc. And there are no sexual history questionnaires which suggest any more abnormal sexual experiences or problems in early years than those reported by other men.¹ Finally, researchers who have looked specifically at social skills deficits find no significant differences between sex offenders and non-sex offenders.² This does not necessarily mean, of course, that sexual problems or personality factors are not important in the commission of sex offences, but simply that there is no solid evidence which supports a causal relationship. Similarly, there is no evidence, other than anecdotal, that arson and sexual deviation are related behaviours.

On the other hand, there is increasing evidence that stresses (brought on by anger, frustration, etc.) may be related to rape and possibly other sex offences as well. We know from sociological studies that the force and violence used in the commission of rape often goes beyond that required for sexual gratification. However, contrary to public opinion, rapists are not men possessed of excessive sexual drive and who must therefore resort to force and violence to satisfy their desires. Nor are they men who prefer violent sex to mutually-consenting sex, much in the way a homosexual prefers males to females.³ Rather the best interpretation of the excessive use of force and violence in rape is that it represents aggressive intent, or intent to harm. In fact, the sexual arousal patterns of rapists are similar to those of non-rapists who have been made angry,⁴ or been given alcohol.⁵

¹Amir, M., Patterns in Forcible Rape, Chicago: The University of Chicago Press, 1971.

²Gordon, A., Davidson, P., Williams, S., Are Sex Offenders Socially Inadequate? Paper presented at the Ontario Psychological Association, Toronto, 1981.

³Barbaree, H. E., Marshall, W. L., Lanthier, R. D., Deviant Sexual Arousal in Rapists, Behaviour Research and Therapy, 1979, 17, 215-222

⁴Yates, E., Barbaree, H. E., Marshall, W. L., The Effects of "Anger" on Sexual Arousal to Rape Cues. Paper presented at the Association for the Advancement of Behaviour Therapy, New York, 1980.

⁵Barbaree, H. E., Marshall, W. L., Lightfoot, L., Yates, E., The Effects of Alcohol on Sexual Aggression. Paper presented at the Second National Conference on the Evaluation and Treatment of Sexual Aggressives, New York, 1979.

What this research means is that emotional stress (and particularly anger) and alcohol increase the probability of rape occurring. Whether these factors are related to other sex offences (e.g. pedophilia, indecent exposure, etc.) is open to question. We do know, however, that factors typically associated with stress (e.g. loss of employment, marital problems, excessive debts, rejection by significant other, etc.) usually describe the state of most sex offenders prior to the offence.

The best conclusion that can be drawn from research related to the nature of sex offences is that we know very little about why men commit such acts. However, both sociological and experimental research indicate that emotional stress and alcohol may be contributing factors.

Implications of Research

The research noted above holds certain implications for the probation officer interviewing a sex offender. It is probably best to free your mind of as many pre-conceptions as possible and interview the sex offender as you would any other offender. It is not necessary to delve into sexual histories or ask questions relating to sexual problems. Not only is it possible that sexual problems or fears are unrelated to the offence, but because a person is a sex offender, we are often "set" to look for or expect problems and abnormalities that may not really exist. Thus, we are likely to build theories on a few facts or interpret what is said to fit in with some theory of our own. If we asked these same questions of non-sex offenders we might get the same answers, but we would not "see" them in the same light or interpret them in the same way. Thus, it is probably best not to ask questions about sexual problems, per se, but rather to talk about problems in general. For example, it is very common for sex offenders to report that "everything was going wrong", "I was in debt and being hassled constantly by my parents", "I had lost my job", "I was depressed", "feeling rejected", or "upset", etc. prior to the offence. It would probably be more relevant, then, to look for and report evidence of stress than to try to discover sexual abnormalities.

Other Considerations

Given that you must ask about the offence, and that this may be an unpleasant topic for both you and the offender, how can you make the offender more comfortable or more likely to talk. There are no easy answers to this question but probably the best approach is to be honest and

direct, e.g. "I know this is not a pleasant topic but I have to ask you some questions about the offence. Would you be more comfortable discussing it now or later?" Many offenders may act strangely, eg. avert eyes, appear reticent, uneasy, etc. but these behaviours are probably more related to embarrassment or shame than anything else. For the same reasons, many offenders deny their guilt in the offence. It is typical for sex offenders in prison who have volunteered for treatment to deny or minimize their involvement in a sex crime until they feel more comfortable with and trusting of their therapist. Therefore, it is not surprising to encounter denial in an initial interview for a pre-sentence report and this should not necessarily be interpreted as a totally negative attitude. There may be other positive signs. For example, if the offender denies the offence but indicates he has other problems and may need help, this usually means that he is not yet ready to discuss fully what happened. However, if he is persistent and adamant in his denial (and remember there are few innocent people convicted of sex offences) this obviously indicates little motivation for treatment. Perhaps a more serious indicator of poor attitude is the offender who shrugs off, brags about, or absolves himself from the responsibility for the crime (e.g. "I was drunk"). A positive attitude, on the other hand, is usually accompanied by confusion and bewilderment about what has happened and/or a direct request for help. If the offender "acts out", behaves weirdly or appears "spaced out" remember that there are a certain percentage of "weird" people in all offender categories and that this behaviour is not necessarily related to his offence (i.e. he is not necessarily weird because he is a sex offender). On the other hand, he may be "acting out" as a means of defense and in order to avoid discussion about the offence. The best strategy is to report as clearly and accurately as possible, the behaviours and attitudes of the offender, but not to draw any diagnoses or conclusions about why he committed the offence. Thus, elements of history, including what the offender may volunteer about his sexual history, may be included as long as they are not presented in such a way as to suggest a causal relationship to the crime. Of course, it is very important to draw conclusions regarding the offender as a person and his attitude towards his offence but these kinds of judgements, guided by the considerations noted above, can be fairly direct and based, for the most part, on the same kinds of intuitions and feelings that guide our assessment of all offenders. And, there is likely no "more than meets the eye" than in any other case.

Where to Discuss Emotions and Personality

Emotional, and physical health, and the various personality characteristics, affect a wide area of offender functioning. Therefore depending on the situation, the writer can choose to reveal the impact of emotional health and personality in the various areas where it seems to be a factor (such as employment, marital relations, education).

Family background:

"Mrs. F., indicated that while living at home, Gerald was very difficult to control. She stated that his emotions were constantly "up and down", he could be "normal" one moment and "wild" the next"

Another approach would be to congregate all the emotional health and personality details together in a section of its own, or as part of a larger section evaluating and describing the "offender as a person" (assessment section).

Examples of "Emotional Health" Descriptions

"Mr. P. and Mrs. K. have both known the subject for many years. They believe that he has difficulty dealing with his emotions, particularly anger. They believe that he is easily upset, but rather than expressing his anger, outwardly he suppresses it. As a result, it is very difficult to "open him up" to discuss problems".

A situation, where some psychopathology can be inferred is described as follows:

"J's perception of his life and problems do not appear to be realistic. He stated that all his problems were caused by the psychiatrists who "really messed him up". During the interview his thought patterns appeared to be disjointed, and he had trouble responding to the questions . . ."

An emotionally stable situation can be dealt with quite simply:

"No evidence of emotional or mental instability came to light during the writer's inquiry".

Another case:

According to Dr. Ramjet, a psychiatrist who has seen the subject in treatment, John is an extremely anxious individual and has a tendency to over react emotionally when faced with even minor problems or aggravations. The subject himself indicated that he has a "short fuse" and that he often "loses control" and reacts with hostility upon being provoked or criticised. This appears to be a particular problem, and John himself admits that he badly needs treatment in order to gain more control over his anxieties and emotions.

You will note that the writer in each case makes no attempt to fashion psychiatric diagnose on his own. Although this is the sole prerogative of the psychiatrist, the writer can nonetheless describe behaviour in a manner which illustrates the apparent problems. A description in normal language of how you and others see the offender's behaviour, and an indication of what impact this behaviour seems to have, can be highly informative for the judge, who can then order a further psychiatric assessment, if he feels that medical expert opinion would be helpful.

Personality Examples

"Jane sees herself as a socially outgoing individual, with many friends and associates. Both from her own statements and those of her parents, it appears as though she is able to develop affectionate and significant relationships with others. Although she is very active socially, she does tend to feel inhibited in new situations or with unfamiliar people. Consequently she generally approaches new situations with caution. According to her mother she is a sensitive person, although not overly emotional..."

"During the interview, Richard was friendly and outspoken. He related that he has numerous friends, and sees himself as a leader among his peers. His mother stated that although Richard tended to handle his independence well, he is often headstrong and inflexible when it comes to differences of opinion. Consequently there has been some conflict over late hours and use of the family car, although these have not been serious problems. Adjectives used to describe Richard by his various friends and teachers include "confident", "cheery", "active" and "enthusiastic".

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"The subject appears to have difficulties in communicating his feelings. He stated that he is a fairly anxious individual, and tends to constantly dwell on "little things that aren't very important." He recognizes this tendency to become easily vexed and anxious, and stated that his worrying about it has often made him depressed. His mother stated that as much as he would like to receive affection and support from others, Mark cannot overcome his shyness, and seems uncomfortable when it comes to anything but the most superficial of relationships."

IX. ALCOHOL & DRUGS

Patterns & Clues

Alcohol and drugs are ubiquitous problems. They are familiar to us in a number of ways.

1. They induce the commission of the offence by creating an altered state in which self-restraint and good judgement take a back seat.
2. They serve as a means of coping with overwhelming problems and negative experiences (interpersonal, financial, etc.). Dependency on drugs or alcohol tends to aggravate, rather than diminish these problems.
3. They began as social habits which have gone out of control, and have, as a consequence, reduced the person's ability to cope, creating problems in other areas, such as employment or marital relations.

The indications that alcohol or drugs may be a problem can arise almost anywhere during the investigator's search for data. The type of offence, or the circumstances of the offence may quickly point to an alcohol/drug involvement. An accusing finger is sometimes pointed within the first minute of an interview with an offender's wife or family "the problem with George is drinking." In some cases, more subtle hints are present. For example, consider the employer who states that "Fred is a good worker, but his absenteeism is a problem. He seems to have a hard time showing up on Mondays . . . " During the interview with offenders, one can find varying levels of disclosure. For many people, denial of any problems (where problems exist) is common, and yet one also finds people who readily admit to their alcohol and drug problems, in order to gain sympathy or as a means of excusing their anti-social behaviour.

Determining the extent of use, such as 1) what (alcohol/drugs), 2) when (every day? weekends only?) and 3) how much is only part of the search for meaningful data. The investigator has to be able to assess whether the use of drugs has been a problem.

A SUMMARY OF THE CLUES TO ALCOHOL/DRUG PROBLEMS:

1. Offender's own statements:
 - how much, when, under what circumstances?
 - his own interpretation; is it a problem?
 - how does he see it as a problem?
 - what has he done about it?
 - motivation for help.
2. Statements of Family & Friends
 - as above
3. Police Statements
 - knowledge of whether alcohol/drugs were involved in the offence
 - police reports and occurrences indicating possible problems (drunk charges, fights, etc...)
4. Employers
 - absenteeism, job performance, job problems
5. Medical History
 - liver or kidney ailments
 - "nerve" problems, as well as general physical state
 - memory problems
6. Financial Problems
 - excessive spending on alcohol or drugs?
7. Leisure Habits
 - most free time in bars or drinking at home
 - late hours, sleeping during day

Reporting on Alcohol & Drugs

For those who have no problems around alcohol or drugs, a simple statement to that effect is all that is required. However, it is important that the comment that "George does not have a drinking problem"¹ be accompanied by some sort of back-up, in order that the judge knows that the P.O. has made some kind of investigation into the matter. For example:

- | | |
|---|--|
| 1. "George does not have a drinking problem." | 2. All sources interviewed stated that alcohol use is not a problem. |
|---|--|

¹In reviewing the sample PSRs, the author found quite a few examples where the statement of "no problem" was made, with no other supporting evidence given. One PSR simply stated "F. says he does not have an alcohol problem".

The basic difference between these two statements is that in statement (1) the judge can only assume that the P.O. has made an accurate judgement, but he has no way of knowing on what basis that judgement was made. Is the P.O. replying on the statement by the offender, or did he in fact look for other clues or corroboration? In statement (2), the judge knows that the judgement is not superficial, but is based on the corroboration of others. Similar to statement (2) is the comment that "There is no evidence of any drug or alcohol problems." Here, there is the implication that the P.O. kept his inquiry open to the evidence of possible problems.

In cases where abuse is apparent, the writer can organize his material in the following manner.

1. A description of the nature and extent of use, (as given by the offender, and others)

Leading to . . .

2. A brief discussion of the impact of the problem (based on how the offender sees it, and on the observation of others).

concluding with . . .

3. The observation or summary conclusion by the P.O. that alcohol has been a problem. For example:

"N. states that he drinks up to a case of beer daily, but feels that this has not been a major problem. He admits that his only problem is that he sometimes gets "difficult to get along with" when drunk. However his parents are concerned that N's drinking habits have indeed been a source of many problems. They state that his uncontrolled intake makes him extremely aggressive and sometimes violent at the slightest provocation. They add that he has been fired from several jobs because of his absenteeism due to drinking. Based on this, and, given N's previous history of alcohol-related charges, it would appear that he underestimates the negative role that alcohol has played."

This sequence of description → impact → conclusion is only one suggested way of reporting on alcohol or drugs. The writer may wish to include his judgement or conclusion at the beginning of the paragraph, and then follow it with supporting evidence:

"Drug use has had significant negative impact on D's life. He states that he began the use of chemicals, mainly "speed" when he was fifteen years old, and gradually increased his intake to the point where he now is almost constantly high. He states that he cannot think straight, and spends much of his time in listless, unproductive leisure. His wife agrees with D's assessment, and added that because of his drug use he tends to become very moody and irritable, often fluctuating from moroseness to violence with little provocation. D. seems to realistically appreciate the negative impact that drugs have had on him.

X. PAST, PRESENT, AND FUTURE: THE SUBJECT'S VIEWPOINT

Goals and Plans

The way people view their past affects their view of the present, and how they may act in the future. The more realistic the understanding and appreciation of his background and situation, the more positively will the person be able to take realistic and meaningful steps toward change.

The extent that a person's life is organized depends very much on their ability to formulate realistic plans and goals, and then to systematically work towards these goals. The inability to develop and attain goals can lead to frustration. A history of failures can also affect how a person feels about himself and the level of motivation he is able to muster for further challenges and goal-setting. While some people are very conscious of striving towards goals of increasing status and responsibility, others tend to drift along without any particular drive or aspiration.

Insofar as it is important to find out about how the subject views his past and present, it is also very useful to know what kind of future the subject sees for himself. Perry states:

"The court in considering a social inquiry report is particularly looking into the immediate future and wants to make a disposal that is likely to have the greatest beneficial effect on the subject's future behaviour."¹

It is also helpful to know how the subject sees his present predicament with the law, and with the current problems which may exist. He may see no problems where real problems exist, or in acknowledging the existence of problems, may feel that his situation is bearable, or that there is a real possibility for improvement. Such knowledge could indicate certain kinds of dispositions or treatment possibilities.

¹Perry, p.58

Reporting on a client's perception of past, present and future

When the probation officer interviews the offender, he naturally gets a view of how the subject feels and views the world. This is of course, part of the job of being a good investigative reporter, and there is no doubt that the P.O.'s comment on the offender's feelings, statements and opinions are important. However, by actually including a sentence on a paragraph which the subject puts in his "two cents," the Court can get a better glimpse into how he himself interprets past and present events. Some possible examples:

"He attributed his attitude to the earlier family situation in which, he says, he was often blamed for things he had not done, and to the disappointment he suffered when, again unfairly he claims, he was rejected by the army."

"... left home some four months ago ... sees this as a retrogressive step and intends returning home as soon as possible."

"He describes his marriage as one of convenience, and subsequently, a disaster. Immediately after the marriage he tells me he discovered his wife was a heavy drinker, and also receiving psychiatric treatment. He claims the subsequent cycle of constant break-up and reconciliations upset him to such a degree that he began to resort to the use of alcohol as a means of escape."

With respect to expectations for the future;

"His plans for the future are at present rather vague, and appear to depend a great deal on the outcome of this case."

"He sees his return to the family home and continued employment with his father as a positive step towards an avoidance of further problems."

The client's own statements, followed later in the report by the P.O.'s own assessment, gives the following picture;

"He stated that he plans to find a job and "settle down" and return to school after the present legal problems disposed of ... however, he seems to be a person who takes life as it comes, and thus far has been unable either to formulate or "stick with" any practical or long-term goal."

XI. SUMMARY OF KEY POINTS

I Present Offence

- | | |
|---|---|
| 1. Premeditation | events preceding, during planning of offences. |
| 2. companions, use of
leisure time | who did what, who instigated. Background circumstances. |
| 3. attitude to victim/
authority | comments re: victims, damage, actions. Behaviour in police investigation. |
| 4. guilt or shame | self comments on feelings about the event. Comments from police, parents |
-

II Previous Record

Provides information on: --

- | | |
|--|---|
| 1. Underlying problems
and coping mechanisms | circumstances which lowers inhibitions or self-restraint of offender |
| 2. Attitude to record and
attempts to change
behaviour | how well the offender understands his behaviour; the extent to which treatment or assistance has been offered and taken advantage of. |
| 3. Time in custody | impact institutionalization has had on family, employment, street life |
| 4. Response to previous
probation | similar to (2): the extent which probation has made an impact on the offender |
-

III Family Background

- | | |
|-----------------------------------|---|
| 1. Family History | details on family members - marriages, dates, relocations |
| 2. Home Environment | parental lifestyles, values, marital relations, parental roles, communication patterns, intra-family relationships, crises and problems. Attitude towards offender and offender's attitude to family. The family as a source of support/guidance. |
| 3. Home & Neighbourhood | description of home and living conditions. Economic status of household, influences of neighbourhood and community |

IV Education

Education: areas of inquiry

- | | |
|---|---|
| 1. attendance | motivation for learning, health, family problems. |
| 2. knowledge & skills | areas of skill development which indicate job-readiness or marketability. Areas of interest |
| 3. relations with peers, ... teachers | abilities to form relationships; self-control |
| 4. behaviour & discipline | ability to focus on learning and take direction. Attempts by school and parents to control misbehaviour |
| 5. special problems | learning disabilities, psychological problems |
-

V Employment

Previous Job History

Job patterns:

number of jobs, duration, types of jobs, reasons for leaving, dismissals

. increasing skills, responsibilities, motivation

&

. lateral movements; unskilled jobs, low motivation or aptitudes

Present Situation - - - - -

employed: title, job role, duration, stability, salary. Degree of satisfaction.

. downward patterns; frequent job changes, regressive move to areas of lower responsibility, increasing periods of unemployment. Possible physical/mental problems or other stresses.

unemployed: period of unemployment, source of income, attempts to secure employment, effect on family/personal life

possibilities for job counselling
vocational assistance, help in
other areas

VI Leisure Time

- | | |
|---------------------------------|--|
| 1. leisure activities | interests, skills, how time is managed - productive, unproductive, associates, companions; social habits |
|---------------------------------|--|

Financial Management

Financial Status

- | | |
|--|--|
| debts, income, standard
of living | planning, goal-setting, social problems, employment problems |
|--|--|

Goals & Plans

- | | |
|---------------------------------------|---|
| what future does subject see? | self statements by offender, |
| what do others see? | family others: |
| what does the P.O. see? | planning, motivation to work on goals, self-directed, outer-directed; self-concept. |
-

VII Emotional Health

- | | |
|-------------------------|--|
| 1. Stable | able to handle problems, without undue stress. Absence of symptoms below, good self-concept |
| 2. Depression | loneliness, hopelessness, low self-esteem, lack of energy, moodiness, suicide attempts |
| 3. Anxiety | tension, uneasiness, insomnia, irritability, worry |
| 4. Acting-Out | lack of anxiety or guilt, impulsivity, irresponsibility, low frustration tolerance, defective relationships, problems with authority |
| 5. Volatile | drunkenness/drug altered states
low boiling point, domestic situations |
-

VIII Personality

Some personality characteristics which affect how a person perceives his environment and how he adapts to pressure include:

- | | |
|----------------------|-------------------------------|
| Introvert/extrovert | sensitivity |
| affectionate/distant | cautious/impulsive |
| level of self-esteem | active/inactive |
| flexible/rigid | inner directed/outer-directed |
-

IX Alcohol/Drugs:

Alcohol/Drugs

Presence/Absence of Problems drinking habits/use of drugs,
extent of drinking/types of
drugs and frequency of use.



consequences: medical prob-
lems social habits (late hours,
parties) employment prob-
lems, marital/family prob-
lems, reduced ability for
self-control.

1. No Problems
2. Some problems: alcohol or drugs
have impaired normal functioning:
 - has alcohol played a role in
offence and other problems?
 - does offender realize the
problem?
 - what is the motivation in
dealing with the problem?
 - what supports, resources are
available.
3. Serious problems: alcohol has
seriously impaired functioning
and self-control. Many aspects
of the offender's life are
affected.
 - to what extent does the offender
appreciate the problem?
 - is the offender willing to
take some steps in dealing
with the problem?
 - What has been tried, and what
treatment is possible?

XII. THE ASSESSMENT

Types

An assessment can be one of several types:

1. An Evaluative Summary of the Key Points.

In previous report sections, the past and present functioning of the subject has been discussed. The assessment provides an opportunity to bring forward all the information together into a summary of the most important points.

2. An Evaluative Commentary.

Some P.O.s prefer to use the body of the report for outlining the offender's background and functioning, and to leave their major interpretations and judgements until the end. Another method uses this section as a portrayal of the "offender as a person". In other words, providing a current cross-sectional slice of strengths/weaknesses. With this kind of assessment, the writer may be presenting some information for the first time.

Most assessments, no matter how constructed, tend to be evaluative. Mills describes the process:

"... 'evaluative' has been chosen to signify that acts of judgement are required . . . Significant facts must be sifted from merely routine information; a judgement must be made regarding information that can be safely omitted. Categories of information must be combined into brief characterizations, such as employment history and prior criminal convictions. Both positive and negative features of an offender's life history must be weighed, and a balanced account of strengths and weaknesses presented that is relevant to the sentencing decisions to be made . . ."¹

¹Mills, p.31

An Aide for Tallying Strengths/Weaknesses

In many cases, preparing a summary of strengths and weaknesses can be aided through the use of a needs assessment scale. In a number of jurisdictions the scale is used as a "check-off guide" to help the officer pinpoint the specific areas of need. Two typical needs assessment scales are provided for illustration. Descriptions used in the scales are relative, and the guide recommends that if they are used in PSR preparation, that they may be used, not so much to get absolute measures of individual needs, but to focus in on what kinds of strengths and weaknesses exist and the relative level of these strengths and weaknesses.

ASSESSMENT OF CLIENT NEEDS AT TERMINATION				
Wis. Dept. of Health and Social Services Form C 902				
Client Name _____		Chart Number _____		
_____	_____	_____	_____	_____
Date of Termination: _____		Agent Last Name _____		
_____	_____	_____	_____	_____
Select the appropriate answer and enter the associated weight in the score column. Higher numbers indicate more serious problems. Total all scores.				
				SCORE
ACADEMIC/VOCATIONAL SKILLS				
-1 High school or above skill level	0 Adequate skills able to handle every-day requirements	2 Low skill level causing minor occupational problems	4 Minimal skills level causing serious adjustment problems	_____
EMPLOYMENT				
-1 Satisfaction employed more than one year or longer	0 Service employment; no difficulties reported or temporary student or service	3 Unsatisfactory employment or unemployed but has adequate job skills	6 Unemployed and exhibiting unemployment needs requiring	_____
FINANCIAL MANAGEMENT				
-1 Long standing pattern of sound financial management	0 No current difficulties	3 Situations of minor difficulties	5 Severe difficulties may include garnishment, bank checks or bank notices	_____
MARITAL/FAMILY RELATIONSHIPS				
-1 Relationship and support exceptionally strong	0 Relatively stable relationship	3 Some disorganization or stress but positive for improvement	5 Major disorganization or stress	_____
COMPANIONS				
-1 Solid support and resources	0 No serious relationship	2 Associations with some negative results	4 Associations almost completely negative	_____
EMOTIONAL STABILITY				
-2 Symptoms well adjusted accepts responsibility for actions	0 No symptoms of emotional instability; appropriate emotional responses	4 Symptoms but do not present emotional functioning; e.g. occasional stress	7 Symptoms present and quite functioning; e.g. hysterical and or hysterical and self	_____
ALCOHOL USAGE				
0 No interference with functioning	3 Occasional abuse some disruption of functioning	6 Frequent abuse serious disruption needs treatment	_____	_____
OTHER DRUG USAGE				
0 No interference with functioning	3 Occasional substance abuse some disruption of functioning	5 Frequent substance abuse serious disruption needs treatment	_____	_____
MENTAL ABILITY				
0 Able to function independently	3 Some need for social once partner for adjustment	6 Difficulties exist; not independent functioning	_____	_____
HEALTH				
0 Sound physical health	1 Handicap or stress interferes with functioning on a recurring basis	2 Serious handicap or chronic illness needs frequent medical care	_____	_____
SEXUAL BEHAVIOR				
0 No obvious dysfunction	3 Real or perceived dysfunction or major problems	5 Real or perceived chronic or severe problems	_____	_____
AGENTS IMPRESSION OF CLIENT'S NEEDS				
-1 Minimum	0 Low	3 Medium	5 Maximum	_____
				TOTAL _____

Supplement A

MULTNOMAH COUNTY PROBATION SERVICES

CASE ANALYSIS SCALE—TALLY SHEET

Case Name

Entry Date

Termination Date

SCALE CATEGORIES

EMPLOYMENT	VOCATIONAL TRAINING	ACADEMIC TRAINING	HEALTH	MENTAL HEALTH MENTAL ILLNESS	LEGAL	SUBSTANCE ABUSE (Alcohol)	SUBSTANCE ABUSE (Drugs)	HOUSING
Less than \$100 earned last month	Unskilled, in need of training; no desire for training	Grade 8 or less	Disabled; unemployable	Need of mental health treatment (not receiving treatment—no desire for treatment)	Civil difficulties, court action pending; e.g., divorce pending custody pending	Alcohol use incapacitates individual; e.g., unable to work and/or maintain social contacts	Drug use incapacitates individual; e.g., unable to work and/or maintain social contacts	No current housing
\$100-\$250 earned last month	Unskilled, in need of training; wants training	High School course-work; no diploma or G.E.D.	Health problems reduce employability	Need of mental health treatment (not receiving, but desires treatment)	Civil judgment, not abiding by terms	Alcohol use caused loss of job, arrest, (last 3 months) or entry conviction	Drug use caused loss of job, arrest, (last 3 months) or conviction	Has housing, but considered problematic to long range goals
\$251-\$500 earned last month	Enrolled in training program (less than 3 months)	G.E.D. or High School diploma	Reports health problems; may reduce employability	Enrolled in treatment program (less than 3 months)	Civil judgment, abiding by terms (last 3 months)	Alcohol use caused family or job problems (last 3 months) e.g., missed work, frequent family arguments	Drug use caused family or job problems (last 3 months) e.g., missed work, frequent family arguments	Dependent housing; i.e., group home, parental home, halfway house, etc.
\$501-\$900 earned last month	Enrolled in training program (more than 3 months)	College course work, no degree	Reports health problems (no effect on employment)	Enrolled in treatment program (more than 3 months)	Civil judgment, abiding by terms (over 3 months)	Client feels alcohol use is excessive, but no serious life problems result; i.e., family stable, job stable	Client feels drug use is excessive, but no serious life problems result; i.e., job stable, family stable	Same housing, owned or rented less than six months
Over \$900 earned last month	() Completed training () No need for vocational training	College Degree: () Associate () Bachelor	Health no problem	() Completed program () No need for mental health treatment	No civil difficulties	Alcohol use not a problem	Drug use not a problem	Same housing; owned or rented over six months

1

2

3

4

5

High

Scale Levels

Low

EXAMPLES

The following excerpts illustrate the different ways of presenting an assessment:

1. A "Summary of the Key Points" assessment

In this example, the writer has chosen to make a series of brief characterizations, based on the facts and descriptions which have preceded it in the body of the report.

"The subject is a single 24 year old, presently living on his own in a dilapidated rooming house. He has experienced a turbulent childhood, characterized by a notable lack of attention and affection from an alcoholic father and a weak immature mother.

age, living conditions,

Since leaving home, at age 17, he has led a somewhat nomadic existence. He tends to live from day to day, and has difficulty formulating or following through with long-term goals. His limited education and lack of specialized skills has helped promote an erratic sequence of short-term jobs.

lifestyle
education, skills
employment

He spends much of his free time socializing with an unstable group of friends and acquaintances and although drug and alcohol use is prevalent, it does not appear to have had a very detrimental effect on the subject.

use of leisure time
drug/alcohol use

Despite his inability to develop meaningful goals, the subject shows himself to be a relatively bright individual. He is well-spoken, has a fair degree of insight into his behaviour and background, and appears to be emotionally stable. His attitude towards the offence is one of remorse and he appears willing to accept the consequences of his actions."

intelligence
emotional stability
attitude towards
offence

In view of these positive signs, and the fact that there seems to be some genuine motivation to change, . . .

motivation
recommendation

Another example:

"G. appears before the court on two counts of Drive While Impaired. She admits to having two previous charges of a similar nature, although these could not be confirmed with the police.

G. was born in Winnipeg but at the age of seven, moved to Oshawa where she has since lived. She suffers from congenital birth defects which over the course of her childhood and early teens required numerous surgical operations and lengthy stays in hospitals.

G. comes from what appears to be a stable and good home environment. Her parents are very supportive of her, while at the same time concerned about her continued drinking and driving. Mr. & Mrs. P. however, find it difficult to account for G's behaviour and feel that the solution is in her acquiring steady employment. This opinion is shared by G. who has indicated that she feels her drinking problem is not a serious one.

G. impresses as an intelligent woman, and although minimizing the seriousness of her drinking problem, was quite co-operative in the preparation of this report . . ."

Another type of assessment is one in which the writer, rather than presenting summary statements about each facet of the offender's life, has opted to narrow the discussion to a few key statements.

1. "The offender is a 34 year old married man facing court for the first time. He seems to be likeable and responsible individual. He has a steady job and is financially secure."

2. "The offender is a 34 year old married man facing the court for this first time. His upbringing and background were normal. The employment and financial situation is healthy, and he appears to be happily married. Overall he is a likeable, even-tempered and fairly responsible individual who appears to function well in all aspects of life . . ."

3. "This is the case of a single seventeen year old woman who left her parental home at the age of fourteen. Attempts by her parents and various community agencies to modify her behaviour and deal with her drug abuse were unsuccessful. In striving for independence she has found it difficult to stabilize her personal life and to develop any long-term relationships. However, over the past year, there has been some indication that she has tried to straighten out her affairs . . ."

4. "This is the case of a single, 18 year old man, who has appeared in Criminal Court on many occasions. From an early age he has experienced considerable difficulties in coping with his home, school and community environments. His limited ability, the misuse of alcohol and drugs, and his susceptibility to peer influence have been areas of concern. On the whole, his self-image is poor, and compounded by disappointments in obtaining consistent and satisfying employment have created in David, the picture of a despondent young man. There appears to be a definite need for support . . ."

5. "Lisa J. is a single 22 year old university student, facing the court for the first time. Despite her involvement in the use of heroin, she does not appear to have become a "hard-core" user, and has consequently avoided the self-destructive lifestyle which accompanies such use. She is a bright capable and altruistic individual who has recognized the negative effects of her drug involvement. She impressed the writer with her desire to strive for a productive, drug-free existence. The prognosis for this young woman is good. However, her positive adjustment is a continuing process, and it is felt. . ."

XIII. FROM ASSESSMENT TO RECOMMENDATION

We are now approaching what can be the most difficult question of the PSR process; namely what decision, or recommendation should be made? The P.O. is now at the point in his investigation where the balance sheet has to be tallied. The mass of facts, opinions and impressions can hopefully lead to some prediction of future behaviour, and possibly to the formulation of a suitable recommendation to the court. The recommendation is the end product of the investigative process. It is a statement which asserts that the court should adopt a particular course of action. In some cases, the investigator may choose to be less assertive and may prefer expressing an opinion as to the effect a particular disposition will have on an offender. In either event, the purpose is to discover what course of conduct would be helpful in preventing the offender from getting into further trouble. In some cases this is not a terribly difficult task. There is a continuum of offences, represented by many offender types, ranging from the extremes of low-need responsible citizen to the hard-core sociopath. Formulating assessments and anticipating sentencing outcomes with these extreme types is not often difficult¹.

However, there is also a middle range of subject's whose needs, problems and situations make the assessment more difficult. At the same time, it becomes more difficult to anticipate sentencing outcomes, as one moves away from the extremes of petty offences and those which are very serious.

How then can the Probation Officer be helped in all of this? The first step might be to gain an understanding of the issues and complexities of decision-making in the courts. Within this broad area it may be helpful for the report writing officers to find out:

- 1) On what basis do P.O.'s construct their recommendations?
- 2) What factors of a PSR have most influence on judicial decision-making, and
- 3) How do the various offender characteristics (age, remorse, etc.) influence the court's disposition, either in aggravating or mitigating the sentence?

¹Curt T. Griffiths, John Klein and Simon N. Verdun-Jones, Criminal Justice in Canada, (Vancouver: Butterworth & Co., 1980) p.196.

By looking at these questions in the next section ("Issues in Decision-Making"), we hope to identify what we know about the decision-making around PSR's, and what decision-making problems and pitfalls are revealed by the research. The P.O. will gain a deeper understanding of the link between the various offender's various characteristics, as may be reported in the PSR, and the way these are interpreted by judges.

A second small step in adding order to the chaos would be to gain some knowledge of the sentencing ranges and options. In order to be able to make realistic recommendations, the probation officer has to have some ideas of what the law calls for. Suggesting probation in a case where a minimum jail sentence is prescribed by law diminishes the credibility of the report. The Section "Sentencing Ranges & Options" hopes to bring some of this information together and outlines what purposes the law has devised for the various sentencing options. Particular understanding is required in the area of probation suitability, since this is the only type of disposition with which a P.O. can overtly make recommendations. It is felt that if the report writer can appreciate the purposes that probation may serve, he or she can be in a better position to evaluate its usefulness for a given offender.

Finally, the guide will attempt to bring the process together by presenting a model for determining probation suitability, based on need, risk and an evaluation of the resources available. The section titled "Finding a Suitable Recommendation" deals with this particular question.

ISSUES IN DECISION-MAKING

I On What Basis do PO's make PSR Recommendations?

There has been extensive research exploring the recommendations made in PSRs by Probation Officers. Curry found that previous convictions, age, employment, stability and residence were important. Carter and Wilkins noticed that positive recommendations varied directly with the offender's education, income and marital and employment stability.¹ In addition they found that there was a tendency for recommendations for custodial sentences to increase directly with the level of drug and alcohol abuse, use of weapons, and existence of family criminality. In one particular study (Hagan), the seriousness of the offence, and the presence of a previous record significantly affected the probation officer's evaluation of prospects for successful probation.² The POAO study pinpointed previous record and attitude to the offence (and attitude to the PO) as being significant, as well as family background (but only for those with criminal records). Although there seems to be disagreement as to which factors are particularly relevant, it appears as though the PO places a fair degree of emphasis on the legal variables such as offence and previous record. Curnock and Hardiker have proposed that Probation Officers use a "tariff in reverse" system, where the "tariff" or (seriousness of offence and previous record) and offender needs are the two major variables which are used in deciding on a recommendation.³ Where the tariff is low, and the needs of the offender are low, the PO inclines toward a conditional discharge. Where the tariff and needs are moderate the line of thinking shifts to probation. This model is outlined as follows:

¹Peter Curry, "Probation and Individualized Disposition: a study of factors associated with Presentence recommendations," American Journal Criminal Law, Vol. 4, No 1, 1975-76, pp. 31-81.

²J. Hagan, "Extra-legal attributes and criminal sentencing; an assessment of a sociological viewpoint," Law & Society Review", 1974, pp. 357-383.

³Kathleen Curnock and Pauline Hardiker, Towards Practice Theory: Skills and Methods in Social Assessments, (London: Routledge & Kegan Paul, 1979), p.71.

<u>Need</u>	<u>Tariff</u>		
	Minor Offence <u>Low Tariff</u>	Medium Tariff	Serious Offence <u>High Tariff</u>
Low ↓ High	C/D (CD) ¹	Fine Probation (fine) ¹	Custody (probation)

In addition to a consideration of the tariff and the offender 'need', the decision to lean towards one disposition or another the PO must consider whether there are resources available to deal with the elements of risk and need that may be evident.

Other studies show that in spite of all the legal and extra legal factors that have been linked to decision-making there is also evidence that the subjective impressions held by a PO have a significant impact on the decision-making process. Experiments in decision-making have shown that officers are liable to make widely differing recommendations on exactly the same data.² Although it seems wise that the officer review and analyse the material and data in order to make an effective decision regarding sentence, it has been shown that in about 60% of the cases, a "decision" on the case is made before concluding the interview with the subject³ and in cases already under supervision there is a tendency to make a decision before actually interviewing the person.

¹Conditional discharges and fines may sometimes be suggested in high need cases, and probation might be tried again, even in cases of high tariff/high need.

²Ann Chandler and L. Wilkins, "Confidence and Competence in Decision-Making", British Journal of Criminology, 1965, pp. 22-35

³F. G. Perry, Information for the Court: A New Look at Social Inquiry Reports, (Cambridge: Institute of Criminology, 1974).

Another study suggests the Probation Officers make decisions relating to PSR recommendations on the basis of relatively small amounts of information.¹ It indicated only 4.7 units of information are used in decision-making and that the pattern of units chosen (offence, attitude, employment, etc.) differ widely from one PO to another.

In order to assess whether recommendations were built on a foundation of verified information or whether they were based more on intuition, Curry found that 40% of the time, PO's felt that their information base was "less than good", with the exception of employment and attitude to authority (measured presumably by the offender's attitude to the interviewing probation officer).

II Decision-Making by the Judges

The issue of decision-making in a PSR is further confused by the research which has tried to isolate the specific factors which influence the judge in sentencing. The problem seems to be in the vagueness of the sentencing process. This process seems to be governed by numerous inputs which among others, include training and background of the judges, information regarding the offence, case law, and offender risk and needs. These variables combine in different ways eventually resulting in the sentencing decision.

Despite all the efforts, it has been difficult to isolate a definite set of factors, which control the sentencing decision. It may be that judges appreciate and respond to the information in a PSR in a manner consistent with their "personal motivations and subjective ends"² Hogarth, whose research on judicial decision-making is extensive, notes that the "type of information sought, the amount of information used, and the way in which it is assessed appear to depend on the highly individual ways in which particular magistrates define their objectives in sentencing".³ As Hogarth found that judges

¹R. M. Carter, "The Presentence Report and the Decision-Making Process," Journal of Research in Crime and Delinquency, 4, 1967, pp. 203-211.

²John Hogarth, Sentencing as a Human Process, (Toronto: University of Toronto Press, 1971) p. 239.

³Hogarth

were consistent in their own individual approach to sentencing, it follows that if a person possessed information about the judge - attitudes, values and beliefs, then he would be up to "five or six times more accurate in predicting what the sentence would be than if one simply had information on the facts of the case."¹

Other findings show that judges' decisions are also affected by their working environment. Einstein and Jacob have shown that the policies and practices developed in the courtroom workgroups (made up of clerks, lawyers, police, etc.) have a significant impact on the outcome of cases, irrespective of a judge's particular biases.²

It may be that given the individual differences between judges and the lack of a codified set of judicial guidelines for sentencing, disparity in sentencing is to be expected. In fact, the whole philosophy of individualizing justice is based on the notion of differential treatment, which effectively ensures disparity, rather than uniformity in sentencing. As long as the objective is individualized justice, then some lack of uniformity will be expected.³

The only factors which the research consistently reveals to have a significant across-the-board impact on the sentencing decision are previous record, and current offence, (the same factors which seem to affect PO's decision). "Stability" of an offender, or his "adherence to prevailing social values" have also been singled out as being important.⁴ The problem with these latter concepts is that they themselves are made up of a number of variables, such as attitude, employment history and family life, and there is no consensus in the research literature which points a conclusive finger at any one of these factors.

Despite the difficulties, most judges view the PSR as an important factor in sentencing. And although the statistics vary, many studies show a high correlation between recommendations in reports and final disposition. Although the correlation may be enhanced by the probation officers second-guessing the probable sentencing outcomes, the PSR is nonetheless seen as an important "contact" between the judge and the defendant.

¹Hogarth

²Griffiths, Klein & Verdun-Jones, p.189

³Griffiths, Klein & Verdun-Jones, p.191

⁴POAO Study, 1975.

Judge Harold Tyler, one of the leading American experts on sentencing emphasizes the importance of the Probation Officers recommendation:

"... without training or advice, the newly created jurist is faced with what to do with a particular offender. Fortunately, the probation officer is always willing to render the necessary assistance and recommendation if the judge is equally willing to realize that the probation officer is a highly competent person in his field with vastly greater opportunities to know the defendant, his background, and what sentence is appropriate. If any word of advice on sentencing be given to a new federal judge, it would be to 'lean upon your probation officer.'"¹

III Judicial Sentencing: How Do Offender Factors Influence the Court's Disposition?

It should be remembered that a PSR forms only one segment of the information a judge utilizes in order to determine the appropriate sentence. The role of the judge extends beyond the concern for the welfare and rehabilitation of the offender.

Nonetheless it is possible to get a better understanding of the judge's thinking with respect to some of the various factors which relate to the offender 'as a person' and to examine how these factors affect sentencing. Aidan Vining and Cory Dean, have collected a valuable amount of information on which the appellate judges of the B.C. Court of Appeal base their sentencing decisions.² They have isolated several broad categories of factors, including "Factors related to the offence" (use of weapons, degree of sophistication, harm to victim, presence of violence, etc.) and factors relating to the "Offender Before the Offence". As the PSR is primarily concerned with this latter group we will consider their findings within this particular category.

¹David Townsend, John Palmer, Jennifer Newton, Critical Issues in Adult Probation - Technical Issue Paper on Presentence Reports, No. 3, (Columbus: The Ohio State University, 1978), p. 97.

²Aidan Vining and Cory Dean, "Towards Sentencing Uniformity: Integrating the Normative and the Empirical Orientation," in New Directions in Sentencing, ed. Brian Grosman (Toronto: Butterworth & Company, 1980), pp. 117-148.

The factors identified by this particular study as being important in the court's decision-making include:¹

- (a) Age
- (b) Sex
- (c) Record (violence, developing pattern, etc.)
- (d) Professional criminal
- (e) Association with criminal elements
- (f) criminal status
- (g) History, and mental and physical conditions of the offender

(a) Age

Age is often regarded as one of the more mitigating factors. The consideration of age as an important element depends on the seriousness of the offences, and the court's attitude towards the offence. In very serious offences however, the influence of age as a mitigating factor is diminished.

(b) Sex

Sex can also be a relevant consideration, and although courts have stated that equal sentences should be imposed in instances where a man and woman are equally involved in an offence, it seems to be common practice for sex to be taken into account when there are children involved.

(c) Previous Record, Criminality

As indicated, this aspect seems to be uniformly relied on in the decision-making of both judges and PO's. The appeal court seemed to recognize that a number of patterns of previous record are possible. Some of these include:

¹The researchers found that most of the factors considered by the Court tend to be viewed in relation to the offence.

- i) no record
- ii) several unrelated minor offences (1-5)
- iii) minor drug, drinking, or driving offences
- iv) past non-serious history (out of trouble for a long time)
- v) past serious history (but no trouble for a long time)
- vi) somewhat lengthy record, but non-serious with no pattern developing, and no incidence of violence.
- vii) serious record with pattern developing and possible violence
- viii) atrocious record with well developed propensity to crime, and including serious and violent crimes.

As record increases, so does sentence. For the "no record" or very unrelated minimal record categories, there is a highly mitigating impact on sentence and the sentences imposed tend to be near the bottom end of the "tariff" range. With serious records, the analysis shows that mitigation is sharply reduced. Moderate prior records have less impact, either mitigating or aggravating, and the sentence tends to be determined by other factors.

Other observations shown by the survey include:

- as violence and premeditation increased, the mitigating effect of no record or minimal record decreased.
- with B & E's as well as "white-collar" crimes (e.g. false pretences, forgery) the court's major focus in assessing record turns to whether a pattern of criminality is developing.

Connected with the record are 3 further factors:

- whether the offender is a professional criminal
- whether he has improved himself as a result of previous leniency by the courts
- whether he is associated with other criminal types

As Vining and Dean state:

"Where the court has decided the offender is a professional criminal or has 'deeply entrenched himself in a life of crime' with little hope of rehabilitation . . . the courts' primary purpose in sentencing becomes protection of the public. Mitigating factors relating to the accused, such as pathetic family background, are severely downplayed." (p. 139)

In addition, the courts' opinion as to whether further involvement with the law would occur seems influenced by the nature of criminal associations. As well, where the offender has been treated leniently with respect to a similar previous crime, there tended to be a substantial increase in sentence for the subsequent conviction.

(d) Mental/Physical History & Conditions

The importance of these factors are dependent on the seriousness of the offence and the record. A number of the most often mentioned factors are listed:

- i) work record (may be aggravating or mitigating)
- ii) disruptive family background (usually mitigating)
- iii) violent or aggressive propensity (aggravating)
- iv) low intelligence (mitigating)
- v) good reputation and character (mitigating)
- vi) good family background, not disadvantaged (may be aggravating)
- vii) personality disorder (may affect where offender is sent)
- viii) education/vocational ability (usually mitigating)

If the offence is "out of character", the Court tends to be more lenient, in support of the argument that such a person can be deterred easily. However, with respect to white-collar crimes, leniency can diminish for those who, despite "good character", had the ability to appreciate their wrongdoing and weigh the consequence of their crimes. 'Cause' of the offence (e.g. domestic or emotional crisis, financial problems, alcohol or drugs, the need for excitement) can also be a mitigating factor, depending on the seriousness of the offence.

(e) Alcohol/Drugs

Addiction can either aggravate or mitigate the sentence or have no effect at all. Vining & Dean conclude that the offender's status with respect to alcohol or drug use is an important clue in predicting the offender's likely behaviour in the future.

Mitigating considerations included:

- i) taking into account the possibilities for treatment by sentencing to a provincial institution instead of a penitentiary.
- ii) situations where drugs or alcohol represent a partial excuse, especially if the offence is out of character.
- iii) the extent to which the offender has tried to rid himself of the addiction.

Circumstances which tended to increase sentence included those:

- i) situations where the Court sees that deterrence is necessary because of increased drug and alcohol induced crimes.
- ii) situations where the Court feels that likelihood of further crime calls for a need to protect the public.

In addition to these "before the offence" characteristics, the appeal court also shows interest in certain "subsequent to the offence" characteristics. These include:

a) Effort at Rehabilitation

According to Vining and Dean's research, this represents the most mitigating factor of any of those subsequent to the commission of the offence. The emphasis here is not so much on the offender's declared intention or promises, but on actual efforts made:

"If the offender has a number of problems, and there has been no effort at rehabilitation, the Court will infer he is unwilling to improve and unlikely to change in the near future and bring the sentence more in line with the seriousness of the offence..."¹

In the case of alcohol or drug problems, the Court tends to weigh importantly the real possibility of success, and will likely not be lenient simply on the basis of the effort that the offender has made. In their survey of appeal decisions, two pieces of evidence were seen as very important: involvement in a treatment plan, and the effort towards educational or vocational improvement.

(b) Nature of personal & family responsibilities

The survey tended to show that individuals who assumed responsibilities or were about to assume responsibilities (caring for a family) merited favourable consideration from the Court.

(c) Family Support

The Court seems to be impressed by the support given by relatives and other interested parties particularly in the case of the youthful offender. Presumably the family is seen as a source of support, supervision and a factor which may influence the offender towards a more responsible lifestyle. Such support is not considered to be relevant in the case of white-collar crimes.

(d) Remorse

The offender's remorse, co-operation with the authorities, and guilty plea are closely related. (In fact the co-operation with authorities, police and prosecution is often seen as concrete evidence of the offender's remorse). In some cases, payment for damages and willingness to make restitution will also have a favourable effect on the Court.

¹Vining & Dean, p.142

In addition to these factors, the survey also found that the Court sometimes will take into account the ability of the offender to cope with prison life. According to Vining and Dean, this factor turns on the Court's assessment of the offender's possibilities for rehabilitation and the likely effect of prison on that rehabilitation.

XIV. SENTENCING OPTIONS & WHEN THEY ARE USED

1. **Absolute or Conditional Discharge**

A discharge cannot be granted if the offence carries a minimum term of imprisonment, a maximum term of 14 years or more, or life. The court must consider whether such a disposition is in the offender's best interest and not contrary to "public policy."

Courts have emphasized that discharges should not be granted on a purely routine basis. One court¹ has recognized that good grounds for a discharge would exist where

1. The offender is of previous good character
2. There are no previous convictions
3. There is no need for deterrence or rehabilitation
4. There would be serious repercussions if the offender were to be convicted²

2. **Fines**

Where a conviction is registered on any offence punishable by 5 years or less, a fine can be imposed, either in addition to, or instead of, any other punishment.³ If the offence is punishable by imprisonment for more than 5 years, then a fine can be imposed in addition to "any other punishment", but not instead of it. Most appeal court decisions do not consider probation as "any other punishment." Fines for summary conviction offences under the Criminal Code are limited to \$500 for individuals (either alone, or in addition to a jail term.)

¹R. v. Fallofield (1973), 13 CCC (2d) 450 (BCCA)

²S. Curt Griffiths, John Klein, Simon Verdun-Jones, Criminal Justice in Canada, (Vancouver: Butterworth & Company, 1980), p.172

³S.646 CCC.

3. Imprisonment

Although most offences have limits prescribed by law, the maximum terms are rarely imposed. However there are a number of offences which carry mandatory minimum sentences. For example, first and second degree murder (life imprisonment), importing or exporting of narcotics (7 years), Drive While Impaired (2nd offence: 14 days; 3rd offence: 3 months), income tax fraud (2 months).

In its recommendations, the Law Reform Commission of Canada suggests that courts should always consider the least punitive alternative, given a number of possible routes to the same desired end. In its Report on Dispositions and Sentences, the Law Reform Commission recommends that imprisonment should only be used:¹

- (a) to protect society by separating offenders who are a serious threat to the lives and personal security of members of the community; or
- (b) to denounce behaviour that society considers to be highly reprehensible, and which constitutes a serious violation of basic values; or
- (c) to coerce offenders who wilfully refuse to submit to other sanctions.

4. Probation

With the exception of offences which carry minimum punishments, a court can suspend the passing of sentence and release a person under the conditions of a probation order.² There have been a number of appeal court decisions which have recognized the value of the suspended sentence, even for very serious cases.³ Although probation is possible in such instances, it is apparent that this disposition would apply only in the most unusual circumstances.

¹Griffiths, Klein, and Verdun-Jones, p.193

²Prior to 1969, probation was available only to first offenders, or those who had no more than 1 previous offence for five years previously, or if the previous offence was unrelated to the present one.

³See Aidan Vining and Cory Dean, "Towards Sentencing Uniformity: Integrating the Normative and the Empirical Orientation," in New Directions in Sentencing, ed. Brian Grosman (Toronto: Butterworth & Co., 1980), pp 117-148.

In a variety of decisions, the appeal courts have ruled that probation should serve a useful purpose. The B.C. Court of Appeal has ruled that:

"probation should be imposed where the offender needs and will respond to continuing supervision. If it will serve no useful purpose, it should not be imposed; the probation authorities should not be burdened with cases where nothing can be accomplished."¹

What do we mean by useful purpose? Under what conditions can probation be useful? It may be helpful to examine what purposes probation can serve, in the light of some of the commonly accepted purposes of sentencing.

(a) Retribution

Probation is viewed by much of the public, and many probationers as well, as a measure of leniency, particularly when it is imposed in lieu of an expected jail term². Despite this, it may involve an uncomfortable loss of privacy and restrictions on liberty. The discomfort achieved by this loss of privacy or restrictions is often felt by the offender to be punitive. A punitive aspect is also imposed by the expected threat of greater punishment should there be non-compliance with the conditions.

(b) Deterrence

Even though probation is a replacement for a more painful and serious deterrent (jail), the threat of possible jail for non-compliance can serve as a continuing reminder of the need to avoid further trouble. This is probably sufficient to deter a number of offenders, particularly those who are new to the correctional system.

¹See Aidan Vining and Cory Dean, "Towards Sentencing Uniformity: Integrating the Normative and the Empirical Orientation," in New Directions in Sentencing, ed. Brian Grosman (Toronto: Butterworth & Co., 1980), pp 117-148.

²Griffiths, Klein & Verdun-Jones, p.253

(c) Rehabilitation

Supervision, provided through the relationship between probation officer and offender is seen as a means of helping the offender readjust to a more socially acceptable lifestyle. In many cases, the assessment of whether probation would be appropriate for a given offender usually is based on the possibility that supervision can have a rehabilitative impact on the offender, and that the offender will respond positively to the kind of social services that probation supervision can offer.

Stevens Clarke describes a number of situations in which the decision to apply a rehabilitative goal is made:

- i) The court decides that probation is not necessary for retributive purposes (the offence was minor, and the offender is not dangerous) but nonetheless certain personal problems have come to light, and probation may be able to offer some help with these problems. It may be that these problems (such as drinking) had nothing to do with the offence.¹
- ii) In view of the seriousness of the offence, (e.g. Assault Causing Bodily Harm arising out of an instance of alcohol abuse) imprisonment is seen as appropriate. However the court also sees the value of a rehabilitative programme (e.g. alcohol treatment), which if followed, may serve to protect the community from further violence. Although jail seems to be appropriate from a retributive point of view, the choice of counselling is viewed as a possible means of achieving protection of others (in that it will hopefully curb the offender's alcoholism, and hence his tendency to commit further offences).

In order for probation to be able to rehabilitate it must be able to provide the rehabilitative service itself, or act as an intermediary or broker for the service. In other words, the resources have to be available, either within the service, or outside the service.

¹Stevens H. Clarke, "What is the Purpose of Probation and Why Do We Revoke It?", Crime and Delinquency, October, 1979, pp 415-416.

(d) Restraint

Probation can be a means of gaining control over a person's behaviour. This may be proper in situations where, although the offender presents some danger to the community, the circumstances of the offence and the dangerousness of the offender are not severe enough to require imprisonment. Here the court's intention is to allow the person to remain free, but to impose certain conditions which will reduce his criminal opportunities and increase the risk of detection if a crime is committed.¹ This can be done through imposing certain limiting conditions, or through surveillance. For example, by requiring a person to attend an upgrading program, the court may hope to decrease the possibility of further crime by rehabilitating the offender (through the acquisition of job skills) and at the same time reduce his opportunity for further crime, through the surveillance provided by the programme and the P.O. In such an instance, the goal of restraint merges with that of rehabilitation. In addition, certain limiting conditions, such as remaining out of bars, or dissociating from certain risky individuals offers a means of restraint by curbing those circumstances which lead to trouble.

The important questions to ask here, are 1) are the limiting conditions realistic, i.e. can the offender realistically be expected to comply with them?, and 2) are they enforceable?

(e) Restitution

Paying restitution or providing community service can be considered a worthy aspect of rehabilitation, in that it can provide some positive readjustment for the offender by having him engage in reparative acts that stress responsible behaviour. It also serves a number of other criminal justice goals, such as punishment (provided that the payment of restitution is burdensome) and recognition of the victim (through payment of money or service). It also represents a means of avoiding a more serious penalty (such as jail).

¹Stevens H. Clarke, p.417

Summary: Uses of Probation

In conclusion, probation can be seen as filling a number of criminal justice needs. These include:

1. Retribution a burdensome penalty
2. Deterrence a continuing reminder of the court's presence, and the possibility of a harsher penalty of non-compliance occurs.
3. Rehabilitation a means of providing some intervention with the personal or social problems encountered by the person.
4. Restraint through limiting conditions and/or surveillance which will reduce the opportunities for further crime.
5. Restitution to permit a recovery of loss for a victim, and to assist in the rehabilitation of the offender.

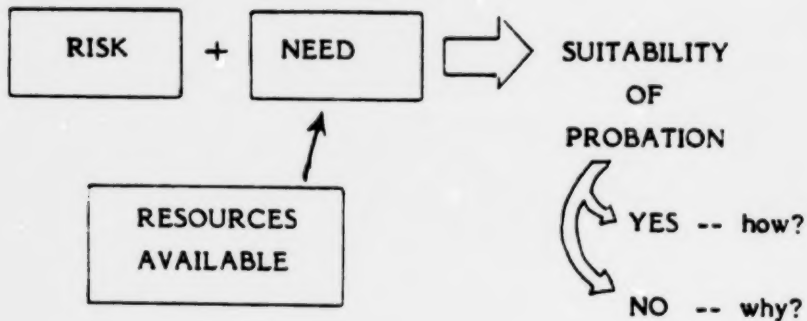
These aims are not mutually exclusive, and often, in considering sentence, a number of particular goals are merged.

XV. FINDING A SUITABLE RECOMMENDATION

Given an increased understanding of decision-making and sentencing, what particular approach can one use in order to assess suitability for probation? One possible method could be to use the Cunock & Hardiker model (see page 107). This approach incorporates a systematic analysis of risk, need, and availability of resources. The authors explain:

"Sometimes the risk of an offender committing more crimes seems to be so great that a custodial sentence is acknowledged to protect the offender or the community. In other cases an offender's needs seem to be so great that nothing else but probation is considered. In other situations the availability of resources seem to influence the decision."¹

What the probation officer has to do therefore is to determine the various degrees of risk and need, and then weigh them along with a consideration of the available resources. Such an analysis would assist in determining whether probation is a suitable option.



¹Cunock and Hardiker, p. 58

Assessing Risk

There are a number of scales available which estimate the probability of future behaviour on the basis of a number of risk factors. Most of these identify risk on the basis of offence and previous record characteristics. Another way of getting an idea of the risk level is to seek answers to a number of questions which go beyond the offence and criminal record. A suggested line of inquiry might include the following analysis:

1. What is the pattern of criminal behaviour?

See page 111 - 112.

2. Tariff

- (a) Is the offence fairly minor or does it represent such a serious crime that the inevitability of a custodial sentence is apparent?

3. Behaviour

- (a) Do the circumstances which give rise to the criminal behaviour still exist, (drugs, unemployment?)
- (b) To what extent can the offender control the influences of these circumstances?
- (c) Is the offender a victim of poor judgement or does the offence represent an isolated incident, inconsistent with overall behaviour?

Once an assessment of risk has been made, the P.O. can then, using his knowledge of the sentencing ranges and the purposes of probation (see pp. 118-122) try and determine whether probation may be useful to control for risk. The basic question is "Are the controls of probation sufficient to restrain or deter the offender?"

Needs & Resources

Since probation supervision is seen as a prime instrument of change for those with personal and social problems, an important consideration should be given to the offender's needs. Probation can provide a variety of services, but the usefulness of such services depends on a number of items. These include the nature of personal and social stresses, the previous response to help or assistance, the offender's present willingness to deal with the problems, or his motivations to engage in reparative acts. Questions to be addressed include:

1. What are the offender's needs? (See "Assessment" Section)
2. What services are available to handle these needs, (either directly by probation staff or indirectly through other agencies or resources)?¹
3. What has been tried with the offender and what has been his response?
4. How willing and motivated is the offender in getting help, or co-operating with the helpin , resources?

As with the control of risk, the question again turns to what can probation do? Some of the possibilities include:

1. Provide assistance with personal stresses through direct counseling and casework by the probation officer, (direct service).
2. Provide assistance through linking the offender to the community resources and monitoring that needs are being serviced (brokerage, referral).
3. Serve as a vehicle for some other sanction or re-integrative programme, (restitution, victim-offender reconciliation, community service order).
4. In cases where need is not high, provide a reminder of the court's "continuing presence".

¹ An in-depth knowledge of local community resources is an obvious necessity if the probation officer is to be an effective agent for linking client needs with required services.

Some Case Examples

The process of measuring and judging the various factors as described can be illustrated using a few case examples. Although the samples tend to be somewhat simplistic, they are nonetheless presented to give an idea of the kind of inquiry or analysis that needs to take place if realistic recommendations are to be made.

Sample Case 1: Youthful First Offender

18 year old male, mischief, first offence, offence took place with friends after a party, offender was drunk. Background shows no pattern of problem drinking. Lives at home, attends school. Remorseful and upset, adequately functioning. Damage has been paid for.

- (i) Risk is assessed to be low. Offence is minor. The circumstances which led up to the offence were situational and not part of an ongoing pattern. 'Tariff' considerations would indicate that custody is not within the realm of consideration. Remorseful attitude would assist in deterring further re-offending.
- (ii) Need - offender does not appear to have any areas of need. His functioning is socially acceptable.
- (iii) Resources - as there is low need, a consideration of resources is not particularly relevant.

In such a case, probation would not appear to be needed, as the offender would most probably be able to manage responsibly without the need for further outside support. However, if the damage was not paid for, then probation might have been considered, but only to ensure the payment of restitution.

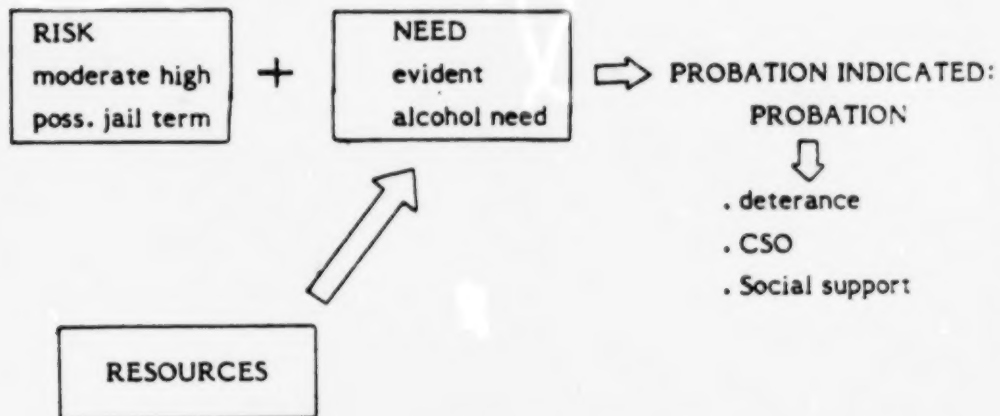
Sample Case 2: Troubled Repeater

20 year old single, female. Present offence: mischief, wilful damage (to subway train). Three previous offences: shoplifting, mischief (within past two years). Unstructured lifestyle; considerable drinking, some drug use. Works occasionally at unskilled jobs; presently employed 7 months as a waitress. Previous probations have shown no offences committed while on probation; co-operative attitude to supervision, but no real motivation to deal with drinking excesses. Prefers her manner of living, somewhat immature. Lives alone or with friends, no real family support. No indication of personality problems.

- (i) Risk: assessed to be moderate to high, previous record. Circumstances (drinking pattern) and attitude (inclined to continue in present lifestyle) would indicate that re-occurrences may continue. Tariff considerations include a possible jail term at this point.

- (ii) Need: Although P.O. perceives a need to gain control over drinking, offender is not motivated in this regard.
- (iii) Resources: Available alcohol counselling in community, but programmes insist on high client motivation.

With this particular case, probation may have some use. From a 'treatment' perspective, probation has been unsuccessful. However it seems to have served as a deterrent in previous situations, in that the offender has remained trouble-free during supervision. Further supervision may have a similar effect on diminishing risk. Jail looms as a possible disposition, and although the offender may not be likely to change her lifestyle, an innovative approach through community service may be helpful. It would capitalize on offender's past co-operative attitude to supervision, her ability to work productively and may enhance a move towards more mature behaviour. Reporting to a P.O. may also permit a monitoring of her drinking and provide some support, given the lack of a productive social support network.



Some Final Comments on the Model

The report writer may find that the approach chosen for discussion in this section may or may not suit their particular style. The guide has no intention of imposing this model for making recommendations, but rather prefers to present such ideas in order to acquaint the new officer with the implicit mental process may naturally be taking place during this phase of report preparation. Curnock and Hardiker again:

"Probation Officers internalize various feelings about 'tariff' and 'need' and rank these fairly implicitly as they formulate their assessments in each case . . . These measures of risk, need and resource are not codified anywhere as explicit theories of probation practice. They are sets of ideas which Probation Officers have worked out for themselves in relation to the offenders with whom they deal. They partly rest on social science ideas (for example, psychopathology), and social work methods (for example, need for help) but they also reflect certain value premises and 'commonsense' observations about such things as the likelihood that a woman will not re-offend, or what the magistrates will tolerate.

. . . There is no reason why sentences should always agree with Probation Officers' recommendations, but there are good reasons for suggesting that social inquiry reports should spell out the principles underlying the assessment of risk, need and resource in a relatively explicit way - that is, if we regard practice theory as valid knowledge."¹

¹Curnock & Hardiker, p.72

Principles of a Good Recommendation

(i) A Recommendation is a prognosis:

It is a prediction that a certain course of action is likely to be of assistance. It should be therefore based on a thorough evaluation of the information base.

(ii) The Recommendation should be Purposeful

If probation is recommended, there should be some desired or realistic goal for probation supervision. The court will probably have more confidence in the recommendation if it is aware that the probation officer has thought through the possibilities of such a disposition.

(iii) The Recommendation should be Practical

A recommendation should be based on a practical evaluation of the availability of help. Criteria for entering into specific programmes or group homes should be assessed beforehand in order to ensure that the recommendation can be acted upon.

(iv) The Recommendations should be based on a knowledge of Sentencing Ranges and Options

It is not enough to recommend a disposition on the basis of only one variable, such as offender need. A recommendation must respect the legal realities if it is to be credible. For example, there is no point in recommending probation in the case of a convicted drug importer who is facing a minimum sentence.

(v) Where Possible the Recommendation should be Specific

The Probation Officer is the expert at the community level. Insofar as the Probation Officer has evaluated the offender's strengths and weaknesses, he or she should also feel free to suggest specific realistic and enforceable conditions which he feels would be helpful.

(vi) A Recommendation should be Written with some Restraint

The Probation Officer is only one source of information in the sentencing process. He or she should therefore not attempt to impose on the court the notion that the recommendation of the report is the only route worthy of consideration.

(vii) The Offender should understand why a Recommendation is Being Made

Report writers do not often have a chance before court to explain to the offender why a recommendation has been chosen. However, if the offender eventually comes to be supervised, either on probation or parole, it is a good idea to discuss the recommendations in the report on the offender. There is often a certain circumlocution or choice of jargon which is used in pre-sentence report and which everybody understands, except the offender.

XVI. THE SHORT FORM PSR

In the last several years, a number of probation officers have started using the one page PSR. The present format (Form 9135) was designed to provide a means of presenting the key relevant material more concisely to the court. The shorter form requires the writer to focus on pertinent matters, to eliminate excessive verbiage, and consequently save secretarial time. The use of this form has been advantageous in situations where stand-down reports¹ are used, or where the court requires only selected items of an offender's background.

When the short-form is used in the same circumstances as a full PSR (i.e. several week remand period) it should be noted that the shorter version does not mean that a less thorough investigation is required. As in the case of the larger format PSR, a full investigation and analysis is necessary. The only real difference is that the amount of material offered to the court is more concise and selective, focusing on some of the major elements such as family and social relationships, job/education, problems, attitude.

When Form 9135 is used as a stand-down report¹, it may be that some quality in the report may be sacrificed. There may only be an hour or so available to prepare the entire report, and it would be imaginative to assume that a twenty-five minute interview with an offender, plus a fifteen minute telephone conversation with his mother would cover all the necessary ground. There may instances where in-depth personal interviews are possible with a number of sources, in which case a more comprehensive report is possible. However, in most cases, the lack of sources and the minimal time available makes this impossible.

¹As with a "full" PSR, a stand-down report is requested once a finding of guilt is made. However, instead of adjourning the case for sentencing for several weeks pending the preparation of the report, the case is "stood-down" only for several hours, so that the short form PSR can be prepared in the interim. Ministry policy allows the short-form PSR to be used only for cases at the Provincial Court level - it is not intended for use in County or Supreme Court cases.

A Probation Officer who is therefore being trained to prepare stand-down reports should avoid the notion that it is necessary to get as much information, as fast as possible, and to cram in as much as one can in an attempt to approximate the full report. In most cases, the aim of the stand-down is to get information on the basics - mainly facts surrounding residence, employment, family, plans and problems. In most cases, the main (and sometimes only) source of information will be the offender. As a result, the report will reflect primarily the offender's perceptions and account of his background and situation. To some extent, the officer will be able to enter his impressions of the offender's attitudes and to make some judgements concerning the ability of the offender to handle his problems. The accuracy of these perceptions will depend largely on how "fast on his feet" the investigator is and how effective his assessment skills are. However, even in instances where these skills are developed, the officer should make it clear to the reader, that because of the limited information available, that the conclusions are only tentative ones. All areas of uncertainty should be made explicit. The writer should avoid the tendency to make quick conclusions or to force fit the offender into a pat typology merely for the sake of looking competent. Despite this, the report can be quite useful in providing a brief thumbnail sketch of the accused and to get an idea of what the particular need areas might be, without necessarily going into a full scale analysis. In many cases, this is all the information that the judge is looking for. For example, a judge may be considering probation for a first-time 17-year old minor offender. However, there may be questions or doubts concerning his living arrangements, or the ability of his family to supervise him. To be aware of these particulars would give the judge some idea as to the role that probation may play, or whether certain conditions would be helpful or not.

The following pages provide a number of illustrations of sample short-term reports. All names and legal details have been changed to protect confidentiality.



Ministry of
Correctional
Services

Probation /
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Service

PRESENTENCE REPORT

Judge	S. RIGHTALL	Court	Prov.Ct. (Crim.Div)	Location	123 Main Street
Name	RONALD STYPTIC			Date of birth	Jan. 4, 1963
Address	424 ROSLYN AVENUE BIGTOWN, ONTARIO			Age: 18	
Charge(s)	THEFT UNDER \$200.			Acknowledges previous record ☐ Yes ☐ No	
Information sources	1. Ronald Styptic				
	2. Mrs. Ethel Styptic (by telephone)				

SPECIMEN

Employment / Education

The subject is presently unemployed. He left school three months ago, partway through Grade 9. He indicates that he never did well in school although he enjoyed his shop classes, his dislike of the more academic subjects was so pronounced, that he "couldn't stand it any longer," and so on. He states that he has been unsuccessful thus far in his employment search, although there is a possibility of a job with a painting firm, beginning next month.

Residence / family situation

Ronald is the youngest of three children of Jeremy and Ethel Styptic, both in their mid-forties. Both parents are employed; Mr. Styptic drives a bus and his wife works as a charwoman. Ronald, his parents and one older brother occupy a 4-bedroom home located in a working-class neighborhood of Bigtown. They have lived at these premises for the past 16 years. Ronald states that he enjoys home life and plans on remaining with his parents. He states that his relationship with his parents is good and that he has never lacked attention or affection.

Assessment / recommendations

The subject feels that his involvement in the offence was "stupid", and that had he thought twice about the consequences, he would never have done it. He appears to be quite upset at the whole court affair and appears genuinely remorseful. His mother stated that Ronald is a well behaved, courteous and responsible son, and that both he and her husband feel that the offence was out of character. They stated that Ronald's leisure time is well spent with responsible friends and that they are not aware of any problems with drugs or alcohol. Despite the limited time available for the preparation of this report, there does not appear to be any major problems evident in this case.

Report prepared by	PETER PROBATION	Location	123 MAIN STREET	Report request date	MARCH 24, 1980
Disposition				Sentence date	MARCH 24, 1980



Ministry of
Correctional
Services

Probation /
Parole
Service

PRESENTENCE REPORT

Judge G. JUDGE	Court Prov. Ct. (Crim. Div.)	Location NEW CITY HALL
Name GIORGIO OFFENDER	Date of birth MAY 10, 1943	
Address 1216 LOWER FLATS ROAD, APT. 2		Age: 38
Charge(s) COMMON ASSAULT	Acknowledges previous record ☐ Yes ☒ No	
Information sources GIORGIO OFFENDER		

SPECIMEN

Employment / Education

Subject indicates that for the past 7 years, he has been self-employed renovator/contractor. He states that recently, business "has not been" and since December, has been supported through welfare. He indicates that during slack periods, he has worked sporadically as a cleaner for a janitorial service.

Residence / family situation

Subject indicates that he is presently staying with a friend in a one-bedroom apartment in a somewhat run-down tenement building. He stated that he plans on moving into his own place as soon as his employment situation improves. He indicated that he has changed his address approximately eight times within the past year.

Giorgio indicates that 6 years ago, he separated from his wife after a 4-year marriage. He has one son, presently living with his estranged wife who he indicated he has not seen for the past 4 years.

Assessment / recommendations

Subject indicated that since the age of 17, he has constantly been in trouble with the law because of his drinking. He indicated that he has been in and out of hospitals and clinics but that he has often been discharged because of his lack of motivation to deal with his problems. He stated that he enjoys drinking, and during the interview, tended to downplay the negative impact which it has had. His attitude was somewhat ambivalent and he seems inclined to live the life of a drifter, spending most of his time in hotels and in the company of others who drink heavily. The writer was unable to obtain much more than a superficial picture of the offender and the court may feel that a full presentence report may be more helpful in this case.

Report prepared by PETER - PROBATION OFFICER	Location NEW CITY HALL	Report request date APRIL 10, 1981
Disposition		Sentence date APRIL 10, 1981



Ministry of
Correctional
Services

Probation /
Parole
Service

PRESENTENCE REPORT

Name	C. Maynard	Court	County Court	Location	Windsor, Ont.
Name	Gerald Doe	Date of birth	August 26, 1958		
Address	1525 MacGregor Street, Somewhere, Ontario.		(958-4448)		
Charge(s)	Possession of LSD for the Purpose of Trafficking (FDA 42-2)			Acknowledges previous record ☒ Yes ☐ No	
Information sources	Offender out of custody; Mr. John Doe, his father; Mr. Larry Parkes, foreman, Southwind Sales and Manufacturing Limited				

Employment / Education

Since October 12, 1979 offender has been employed by Southwind Sales and Manufacturing Limited where he earns \$4.25 an hour. His foreman considers Gerald to be an excellent worker. Previously, he has been employed by various factories in the city for short periods of time. His first job after leaving school was at Match Manufacturing where worked for one and a half years until the company closed down.

Offender finished his grade eight at Iona Avenue School. He then entered Westhill Secondary School where he completed grade ten but left at age seventeen while enrolled in grade eleven as he found the work academically too demanding for him.

Residence / family situation

Gerald is the second youngest of five children born to John and Maria Doe and ranging in ages from twenty-seven to twenty years. The father, age 58 is an employee of Smith Glass Co. and previously had worked for twenty-seven years at Pittsburgh Industries. The mother, age 53 is now a homemaker but was previously employed as a school bus driver for a number of years. Gerald was not considered to be a serious behavioural problem in the home.

Offender married Angela Hoppin, age 23 on June 20, 1978, after they had lived together in a common-law relationship for three years. His parents expressed their approval of this marriage as they had heard that Angela associated with motor cycle members. Angela had a child, Sam, age 4, from a previous marriage. In April 1979 this couple separated as he states he found that his wife was involved in extra marital affairs. Gerald also indicates that he and Angela were abusing drugs during their marriage. After the separation offender became depressed and for three to four months he states he was taking two hits of LSD (Lysergic Acid Diethylamide) daily. He states that he no longer uses LSD, but that he does smoke marijuana occasionally. Since June, 1979 Gerald has been residing with his parents and younger sister.

ASSESSMENT/RECOMMENDATIONS:

It appears that it has been only in the past six months that this offender has been able to maintain employment and remain away from chemical drug use. For two years previous he has been involved in drug abuse and been unable to hold jobs for any length of time. His relationship with his wife was fraught with difficulties and Gerald now feels he has accepted the termination of the marriage and states there is no hope of reconciliation between them. His parents are willing to have him reside in their home until he is financially secure and able to support himself. Gerald expresses that he often experiences feelings of paranoia and these feelings were exaggerated when he was using LSD. It is felt that offender could benefit from psychiatric help and he himself seems to realize that he needs counselling.

Report prepared by	Location	Report request date March 3, 1980
Disposition	Sentence date March 14, 1980	

XVII. THE PSR AS A CREATIVE COMMUNICATION

Introduction

The entire process of preparing a PSR is an exercise in communication. The data collection stage is effective only to the extent that the investigator has maintained a healthy flow of information from his sources. The written report itself represents the channel through which all the relevant facts gathered during the investigation are finally transmitted to the judge. The report is only helpful to the degree that the information gathered during the investigation is organized and set down in a manner which provides new knowledge for the reader. This has to be accomplished effectively, for the report is basically a one-shot piece of prose. It is a one way transmission which relies on only one type of message code (the word), and only one type of transmission channel (the report). Because the information is sent in one direction only, there is little possibility for the reader to seek out added meanings or to clarify ambiguities.

The limitations of language become evident if one begins to analyze the state of the narrative in the social sciences, where terms and concepts not only evade simple definition, but have different connotative effects.¹ This implies that the report writer in human sciences cannot be cavalier in his use of terms. Being accurate, as well as persuasive requires that the writer gain a respect for the words and terms he uses. In describing the state of a person in social science terms, the writer must be able to refine his words as much as possible, and also be adept at using the devices of example, comparison and description in order to effectively transmit his perceptions.

The task of gaining a control over language for the new PSR writer is not always easy. Over the years, a particular type of rhetoric has become entrenched in the correctional PSR. In order to communicate within the world of judges and psychiatrists, the language of PSR has become a pseudo-technical melange of medical, legal and psychiatric terms. Although technical jargon has its uses, it can also serve to cripple understanding rather than illuminate it. Consider the diagnosis which confronted Judge Mitchell of the Winnipeg Provincial Court:

¹Harold C. Martin and Richard M. Ohmann, The Logic and Rhetoric of Exposition, (New York: Holt, Rinehart and Winston, 1964), p.3.

"Basically Mr. Brownstone appears to present himself in two distinct but related perspectives, the division of which seems based on a combination of multiple factors, such as psychological development maturity, motivation to achieve in an appropriate employment setting and sex-role identity stabilization . . ."

It is often easy to entice the novice report writer into these lofty ways of expression, when in fact a better route might be that of the straight and simple. This can be difficult, particularly for the more experienced officer who has become used to the lofty and sometimes pompous style of writing. Changing such a habit offers yet another challenge to the PSR writer.

It should be apparent that creating PSRs requires more than an understanding of the offender. In order for the facts and feelings to be transformed into effective prose, a respect for the nuances of language and exposition is required. In the following segments a number of topics will be explored, which hopefully will assist in the making of accurate, meaningful and readable prose.

XVIII. THE ART OF MAKING ASSERTIONS¹

The Nature of Asserting

For many people, good prose implies good grammar and readability. However, any effective piece of writing depends on more than just control over words and punctuation. The prose has to be meaningful and persuasive as well. Testing for soundness of content and reasoning requires that the writer ask the question: "What do each of my sentences say, and how legitimate are they?"

Many of the facts of a PSR are conveyed to the reader in the form of declarative statements, or assertions. An assertion is a statement which claims that something (the predicate) is true about something else (the subject):

Harold (subject) was born in Montreal (predicate).

The persuasiveness of any report is increased when the various assertions are accepted and believed by the reader. The reader's acceptance of the facts is related to the degree that he or she is able to mentally assent to that which he or she reads. If the judge for example, mentally responds with such asserting remarks as "I see", "Oh", or "that's true", then he will see the contents as legitimate and worthy of consideration. This can occur only when the reader feels that the statements are true. The truthfulness of a statement can be measured only to the extent to which the reader is able to verify the contents. Naturally some assertions are easier to prove than others, and one can distinguish a number of types of assertions depending upon the ease in which verification can take place. Some statements such as "George is six feet tall" are susceptible to almost certain proof, while others are almost impossible to prove. A writer's certainty about the statements he makes are often signalled to the reader through various parenthetical remarks such as "in my opinion", "as far as I can tell", "without doubt", and so on. This can also be done by assuming a particular tone (authoritative, informative, skeptical) within the prose itself.

¹The segment of the guide borrows heavily from the ideas of Martin and Ohmann. Much of the discussion on assertions has been adapted from The Logic and Rhetoric of Exposition.

We can distinguish three types of assertions used in PSRs:

1. Statements of fact. These are statements in which the truth is readily apparent through observation or reference to common experience: "Margaret Thatcher is an Englishwoman."
2. Factual statements. These are statements in which truth or falsity can be determined. "He is the most intelligent student in the class." In this case, the truth can be tested once there is agreement on how intelligence is to be measured.
3. Opinions. In these instances, the writer is unable to find a means of soundly proving the statement one way or another. "He is more sensitive than most people" is the kind of statement for which an agreed upon test of validity would be difficult.

How then, can a writer ensure that what he writes is seen as truthful, and hence persuasive? One approach to this problem would be to examine those factors which are likely to either promote assent or inhibit it.

1. **Ambiguity**

The more ambiguous the statement, the less likely it will be seen as easily verifiable, and there will be a tendency for it to be regarded as an opinion. Clarifying, qualifying or illustrating ambiguous terms such as "difficult" or "happy" will make for increased agreement or assent in the reader.

2. **Connotation**

People tend to respond favourably or unfavourably to certain words, depending on their past associations or experience. Consider the two statements presented by Martin & Ohmann: "He saves his money" and "He hoards his money". Whether we regard one as a statement of fact and the other as an opinion will depend on their connotation, - on the associations they give rise to in our minds. "Saves" means "puts away money", yet "hoards" implies greedy accumulation, for which testing may be difficult. The writer should therefore be sensitive to the kinds of emotional response that particular words may give rise to, and to be aware of their possible impact on the reader.

In addition to the effect that vague terms and those with various connotative qualities can have, the quality of assertions is also affected by the way the sentences are composed, or how the ideas of these sentences are presented. It may therefore be helpful for the writer to be wary of a number of bad habits:

1. MEANINGLESS STATEMENTS

Sentences which have no meaning or are nonsensical serve no useful purpose. Grammar or spelling mistakes can sometimes do this: "She stated that unless she receives some support soon, she would have to begin leading an immortal life."

2. VAGUE TERMS

Sometimes a message becomes so lost in abstract and vague terms that interpretation becomes difficult, or impossible. "Consequences of the apparent familial dynamics would imply the necessity for intervention." This can often be avoided by sticking to plain and simple language (Refer to the section on "Style").

3. MISLEADING ASSERTIONS

Fact can sometimes be distorted by implying a casual connection between separate bits of information. "Since his arrival in the neighbourhood, the police have reported increased thefts." Or "Last year his father died, but this was not serious." Writers should be aware that these types of misleading connections can occur unintentionally.

4. EXAGGERATED OR UNDERSTATED DESCRIPTION

Distortion can occur when a writer becomes too reliant on words such as "all", "never" and "extremely". "He spends all of his time at the pool hall." Does this mean that he spends no time elsewhere?

The opposite habit, understatement, can also provide for misrepresentation of the facts. To describe a wild barroom brawl as a "minor unpleasantry" implies a slanted viewpoint, and one which is not likely to generate credibility for the writer.

5. OVERSIMPLIFIED STATEMENTS

P.O.s can sometimes fall into a trap of oversimplifying their assertions in the attempt to explain and compartmentalize a person's history or behaviour. In the statement, "his use of heroin was a logical result of his earlier experimentation with marijuana" is an example of an "explanation" which ignores the intricacies of a particular problem or issue.

6. TRIVIAL ASSERTIONS

The inclusion in a report of statements which are so trivial or obvious do not necessarily diminish the truth of that statement, but moreover demonstrates that the writer cannot organize or select his material meaningfully. Including a commentary on what all the members of an offender's family are presently doing ("His sister Marie is married and lives with her husband and two children in Wawa") is one possible example. Another example, "The company president was upset when he discovered that his lifelong partner had embezzled the company assets" is another case which will demonstrate a naïvete in the writer's treatment of the topic.

Finally, consider the following statement: "Mrs. M. described him as an outgoing and active individual who does not like to be bored." Do you know anyone who "likes to be bored?"

7. REDUNDANT STATEMENTS (Tautologies)

Some statements repeat the same information in a way that attempts to lend authority or extra knowledge to a topic. "I feel that he would recover from any injury that

was not inevitably fatal", or "the shock of his court appearance will be a deterrence because it will prevent any further misbehaviour." It is acceptable to use a tautology as a definition, but according to Martin and Ohmann, "when they masquerade as explanations or as discoveries . . . they do not achieve what they claim . . ."

Conclusions:

The report writer should be aware that his array of facts and knowledge can either promote assent in the reader, or create doubt and uncertainty, and this depends on how that information is presented. Creating a report that is accurate, factual, meaningful, responsible, and understandable will depend upon how the writer fashions his statements and develops his hypotheses. One way of ensuring that this occurs would be for the writer to review his statements, and read them as though he were the report's recipient. Do the statements appear factual? Do they appear truthful in a manner that can be verified? Do they represent opinion? All reports will likely contain examples of all kinds of assertions. The important task is not to create a report in which every idea can be evaluated as a verifiable statement of fact, but to ensure that the language used is clear and does not distract or mislead. One way to do this is to follow some hints, which are summarized here as helpful "do's" and "dont's".

HINTS FOR EFFECTIVE ASSERTING

1. ELIMINATE OR CONTROL FOR AMBIGUOUS WORDS
2. BE WARY OF CONNOTATIVE WORDS
3. MAKE STATEMENTS MEANINGFUL; IT HAS TO SAY SOMETHING
4. USE SIMPLE CLEAR LANGUAGE; IT HAS TO BE UNDERSTOOD
5. AVOID MISLEADING STATEMENTS
6. AVOID EXAGGERATIONS OR UNDERSTATEMENTS; HAS YOUR ATTITUDE TOWARDS THE OFFENDER CREATED AN UNWARRANTED SENSE OF DRAMA?
7. AVOID OVERSIMPLIFICATION
8. AVOID THE OBVIOUS OR TRIVIAL
9. WATCH FOR REDUNDANCIES

XIX. BACKING UP THE ASSERTIONS

The Need for Back-Up

Recognizing that assertions or statements can be of different types is only part of the necessary understanding an investigative writer requires. Assertive interpretations and conclusions may stand up by themselves, but they cannot prove themselves. The statements and judgements rendered in a PSR require "back-up" or proof, in the form of other information provided previously in the report. Statements which are detrimental to a particular offender (whether true or not) will invite skepticism and possible challenge, unless the basis for these statements is demonstrated.

Naturally not all assertions will contribute sufficient proof. The writer has to select those bits of information which are relevant supporting statements. One example of an assertion which lacks in this support comes from a recent Ontario PSR:

"He is a stable and responsible youth, in that he helps his father in the family business."

In this case the backup statement ("in that he helps his father. . .") is questionable proof of stability and responsibility, given the absence of any additional information.

In PSR work, evidence is found in a variety of sources. The best form of evidence is observation. The direct observation by the P.O. of an event, an offender's surroundings or behaviour is credible proof, much as it would be in the court of law. However, the writer receives much of his information, not from direct observation but from other sources too, and he must evaluate these reports and their sources in order to establish their credentials. Some questions which can be mentally reviewed to assist in this evaluation include:

1. Who or what is the source?
2. Is this the kind of source that is likely to provide accurate information?
3. Is this person likely to have had the opportunity of observing (behaviour) directly?

4. What is the possibility that this information has been subject to distortion, bias or ignorance?
5. Has the information been corroborated by other sources or how can it be further corroborated?

Implied in this analysis is the need to be explicit in the report about the source of information (Mrs. Smith added that . . .) and the degree to which the information represents easily verifiable content, or opinion. (e.g. "His father felt that George is not assertive enough to lead his own life . . ."). For the PSR to be a professional document, information should be attributable, so that its validity can be tested, in the event that the information is contested or challenged. This not only holds for reports which contain detrimental evidence. Occassionally one finds reports which categorically state that there are no problems with the offender. One report claimed that its subject was a "mature, well-balanced person . . . he does not have a drinking problem," without providing any corroboration. These facts may indeed be true, but unless the judge knows how these conclusions were arrived at, the conclusions may not be accepted.

Another source of evidence identified by Martin and Ohmann is that which is based on authority, which they define as "opinions, judgements, generalizations, and principles voiced by people who should know." Evaluating and predicting human behaviour is not an absolute science, and even those who have a body of specialized knowledge can only offer informed intelligent opinions and judgements. Some authorities are better than others, and given the present state of the art in psychiatry and social sciences, report writers should cultivate a healthy skepticism to allow for a realistic possibility of error. Report writers should not be reluctant to explain the tentativeness of their own conclusions or those of the outside experts:

"Just as in ordinary talk, people hedge their bets by inserting 'probably', 'it is likely that', and so on; in more formal argument, it is possible to retain soundness in the face of uncertainty by building the uncertainty into the proof."¹

¹ Martin & Ohmann, p.99

Conclusions:

The discourse on assertions and proof has not been presented to complicate or confuse the report writer. Most officers do make effective judgements in assessing the accuracy of their material. Rather, the theory presented here is only meant to encourage new officers to develop a healthy understanding of the potential persuasiveness of the written word. What officers write about a person may have a significant impact on the life of that person. It is only normal to expect that words and facts be handled thoughtfully and professionally. Martin & Ohmann:

"...a writer must know the nature of the assertions he makes in order to understand what meanings they convey and what responsibilities they impose on him. If that consideration becomes important to him he has the kind of command over language that prepares him to represent honestly the world as he understands it."¹

¹Martin and Ohmann, p.67

XX. STYLE

Style refers to the total effect of a piece of writing. It is determined by the ideas, the order, the sentences, and the words, all working together. The style of a report is also affected by a great deal of characteristics unique to the writer; reading background, range of experience, feeling for rhythm, to name a few. Because of this personal element, it is difficult to develop strict rules for learning style. However, there are certain expected standards which need to be adhered to despite individual differences. The PSR, as a court document, must follow a certain formality. For example, it would be out of place to write that an "offender got his head together". A certain level of word choice is called for, consistent with the respectful treatment which legal matters require.

Given the requisite for a formal approach, and given the subjective nature of style, what can be offered as suggestions for improving style? Thomas Cain offers a number of possible ideas:¹

1. **Vary the Lengths of your Sentences**

Sentences which are all the same length begin to sound the same after a while. If two sentences are the same length, then the third should not be.

As a rule, shorter sentences make for more concise prose. However, there is no rule carved in stone that says short sentences are better. Some writers can generate excellent prose with sentences 100 words long, but for most people, this is hard to manage. Extremes, either in length or shortness create difficulties. If sentences are superfluous, the reader skims, and if they are too short, the prose becomes cryptic and incomplete. Sentences of no more than 20 words or so tend to be the most manageable, although, with punctuation, the lengths can easily be extended. The writer should use no more words than is necessary to get the meaning across. Consider the following:

¹Thomas Gain, Common-Sense about Writing, (New Jersey: Prentice-Hall, 1967.)

"in general, the family members engage in a considerable amount and variety of mutual activity both inside and outside the home."

or

"The family does many things together."

Another actual example of sentence stuffing:

"A mitigating circumstance for this could be the fact that he got officially married last weekend, and so presumably his mind was on the arrangements and it is quite possible that he has, as they say, now settled down to be a family man and has no intention of repeating any offences against the law."

2. **Avoid Always Beginning Sentences With The Subject**

Most sentences begin with the subject. The resulting lack of variety helps induce the same sedative effect that sentences of equal length do. As with the rule above, never write more than two or three consecutive sentences beginning with the subject (unless there is a good reason). Compare the illustrations below:

"He stayed with the Brown family for 3 years. Mr. Brown stated that he was a moody person, who was quite high-strung and difficult to manage. Mrs. Brown adds that he never complied with what she feels was reasonable discipline."

"For three years, Robert lived with the Brown family. According to Mr. Brown, he was a moody person, quite high-strung, and difficult to manage. Mrs. Brown adds that he never complied with what she feels was reasonable discipline."

Sentences beginning with adverbs, phrases and subordinate clauses (such as "behind", "during", "there", "in a few weeks", "later", "as a result") will often make for a more interesting style.

3. **Use Different Kinds Of Sentences**

There are basically three major kinds of sentences: simple, complex and compound. A simple sentence has one independent clause, e.g. "He always eats at home." A complex sentence is made up of an independent clause and a dependent (or subordinate) clause: "The

student failed, (independent clause) because he did not study" (dependent clause). The compound sentence is formed when two simple or complex sentences are joined by "and", "or", "nor" or "for" (conjunctions); "The student failed because he did not study (complex sentence) and he never attended classes"(simple sentence).

Using a number of different sentence types not only makes for a richer style, but the different types of sentences may also serve a number of purposes. For example, simple sentences are useful in introducing a new point, direction or argument. Complex sentences, which are common in prose, are useful in PSR's where they help to describe the chronology of events or consequences of an action. The compound sentence is like an equation, holding together two clauses which the writer wishes to have equal weight. Compound sentences tend to add an authoritative note to any arguments being made.

There are two other types of sentences which can be used to increase variety or add emphasis. These are the loose sentences or suspended sentences. A loose sentence is made up of a main clause and a string of modifiers.

"He rarely touches alcohol, which appears to reduce his shyness, while at the same time increasing his aggressiveness."

This kind of sentence suggests a "let's figure it out" informality between the writer and the reader

A suspended sentence is one in which the reader has to wait until the last word in order to complete the subject - verb - object unit:

"His constant eating, which stemmed from an ongoing depressed state, acted only to increase his feelings of inadequacy."

In using such a sentence, the writer presents whole ideas as a unit, almost demanding that the reader accept the whole idea. It has a "Now hear this" effect.

4. **Avoid Passive Verbs**

Reliance on the passive voice is one of the greatest diseases of style in the social services.

"He was discovered to have a fear of wetting his bed. His mother is considered to be over-affectionate and to be possessed of a strong wish that Kenneth be kept dependent, while his father could be termed unreasonably strict. It is interesting to note that a great many of Kenneth's problems were found to be his parent's problems also; neither could be said to have had very good relationships with their own parents. In Kenneth can be seen a classic example of an over-controlled child . . ."

Although this style of writing is sometimes necessary because of the tentative nature of the conclusions, it is also haughty and suffers from lack of vigour. The writer should try, as often as possible to use the active form of the verb, unless there is a good reason not to.

In addition, there is some evidence that the use of high energy adverbs and adjectives (e.g. greatly, mostly, extremely) up to a certain indefinite point, increases the persuasiveness of a communication, more than those which are low intensity, (e.g. seems to be, perhaps, possible). Adverbs are words of judgement, and often imply that the reader agrees with the writer. For example, Gabor¹ indicates that in the example, "The offender behaved respectably", the term "respectably" modifies or describes the action and implies that the P.O. and judge agree on what constitutes respectable behaviour. (However, the P.O. should keep in mind the connotative effect of words, and as far as possible, attempt to increase the verifiability of his message through illustration or comparison).

5. **Avoid the "Noun Plague"; Use Working Verbs**

A related social science affliction is the habit of using nouns where good working verbs will do.

"He is negligent on the details of his work" becomes crisper and more definitive by saying "he neglects the details of his work". Sometimes in the desire to appear learned, the writer produces a string of nouns which, taken as a whole, makes for a very dry and ambiguous effect:

¹See footnote, page 160.

"Although authorization for his absence from the programme was given, it was apparent that his deviational conduct continued, with the realization to those who supervised him, that his earlier improvement was short-lived."

Another example:

"There appears to be some inconsistency in the offender's explanation in relation to the time periods of cohabitation."

Some of the more commonly used nouns include:

advancement	application
performance	aspiration
alleviation	relations
realization	deprivation
negotiation	confrontation
employment	termination

The writer can often clear away the vagueness and add vividness to the narrative by substituting the nouns with clauses containing verbs.

Another way to avoid the noun plague is through the use of a thesaurus. Look up the root of the "tion" word which you would like to get rid of, e.g. motivation = motive. By consulting the root word, motive, a whole collection of new words become possible . . . cause, occasion, inducement, temptation, incentive, spur, . . . It may be that one of these words are more precise and closer to what you wish to express than the commonplace and overused word, 'motivation'.

6. **Be Concise & Clear: Make your Words Simple & Concrete**

(i) Redundancies

To eliminate redundancies and wordiness is to achieve conciseness and simplicity. Sometimes in an effort to be clear, or to emphasize a point, one inadvertently repeats oneself:

"The family lives in two locations, one in Thunder Bay and the other in Atikokan."

There also exists a whole vocabulary of trite redundancies which have slithered into common usage and which have become so accepted, that the redundancy is no longer obvious. Part of a long list includes:

basic fundamentals fundamentals
but nevertheless but/nevertheless
consensus of opinion consensus/opinion
each and every each/every
unknown stranger stranger
ask the question ask
the reason is because because

(ii) Wordiness

First cousin to the redundancy is wordiness. Addiction to the 'noun plague' and 'passive verbs' are only a few of the bad habits which make for wordiness and poor style. We also have developed a glossary of longwinded prepositions and conjunctions. Some of these roundabouts can be contrasted with the more straight-forward (and hence preferable) forms:

along the lines of like
as of this date today
at the present time now
in the case of if
in the amount of for
owing to the fact that since, because
on a few occasions occasionally
with the result that so that
to a large extent largely
in the event that if

(iii) Jargon and Big Words

Jargon is another source of confusion¹. The use of specialized terms may tend to help define common phenomena in social work, but an over-reliance on such terms, as demonstrated by the rather extreme example faced by Judge Mitchell, can actually mystify, rather than clarify.

¹ The word jargon comes from the French root, meaning "a chattering", or "warbling".

Jargon not only keeps the 'outsider' (the offender) uninformed, but it can give him the strong suspicion that he is being bamboozled.¹ In addition it can give the writer a sense of power and facility that he had not earned by thought. He can compose in jargon without reflection and with almost no reference to reality.

Another scholar of rhetoric, Jacques Barzun comments:

"The impulse in the pseudo-technical is to 'cover' all the possible details by means of general abstract words, rather than by sharpening what we mean by using simple concrete ones."²

Symptoms of the jargonitis are evident when there is a preponderance of 'tion' nouns, 'ize' verbs, and an excessive number of terms drawn from the different 'ologies'. The tendency to cluster words without links, such as 'non-age-discrepancy - sex offences' and 'de-institutionalization' are typical examples of jargon.

One way to avoid the overuse of jargon is for the writer to ask himself or herself whether the word is really necessary, and whether it can be said more simply without a loss of accuracy and completeness.

There are other forms of attempted elegance often found in report writing. These take the form of 'genteelism' - avoiding the plain and simple word and substituting a more pompous alternative:³

precarious (risky)	impediment (snag, block)
renumeration (pay)	apprehend (stop arrest)
activate (start)	aspiration (goal, hope)
shrinkage (theft)	substantiate (support, prove)
utilize (use)	vicissitude (problem)
manifest (show)	unmistakeable (obvious)
ameliorate (improve)	endeavour (try)

¹Martin & Ohmann, p.243

²Jacques Barzun, Simple and Direct: A Rhetoric for Writers. (New York: Harper and Row, 1975).

³Jacques Barzun.

Examples of pompous statements include:¹

"To this union, nine offspring have resulted."

"Considerable conflict of a verbal nature"

"He expressed a high degree of discomfort he is experiencing in confinement."

"There is general family perception that family rules have received a good deal of verbal stress, but in practice M. has been free to do as he pleased."

"Recreational interests appear to centre on mainly friends and guitar."

Pompous posturing is also achieved through a deliberate inversion of the word order, in a manner which suggests more force or elegance:

"He is a sensitive man, from whom, must be kept, certain details of family history."

A more logical way to express the idea might be:

"He is a sensitive man from whom certain details of family history must be kept." or "He is a sensitive man who would respond badly to family problems."

To summarize, then, clarify and conciseness are achieved through:

1. Eliminating redundancies (basic fundamentals)
2. avoiding roundabout prepositional phrases . . (along the lines of)
3. avoiding jargon as much as possible
4. choosing the simple concrete word (precarious -- risky)

¹All of the illustrations presented in the guide are actual examples drawn from Ontario PSR's. None of the examples have been distorted or exaggerated for literary effect.

(v) Clichés

A near relative of jargon is the cliché - an expression so overused that it has lost any of the valuable impact it may have had when it was first coined. Typical examples found in PSR's include:

"utterly reject the possibility of returning home"

"seriously consider the job offer"

"make perfectly clear . . ."

"she endorsed the sentiments of her mother . . ."

"the acid test of his readjustment . . ."

"he is his own worst enemy"

Unfortunately, triteness has become so assimilated our language that it becomes difficult to identify, and often difficult to avoid. It is recommended that writers review their prose, in order to catch the hackneyed phrases and then attempt to paraphrase them into more original form. By doing so, the writer might even be able to invent a few original phrases of his own.

Conclusion:

In the many works on rhetoric and exposition, the greatest emphasis seems to be placed on simplicity . . . the use of simple concrete words and phrases. We might be reminded by the words of the poet Walt Whitman:

"The art of art, the glory of expression . . . is simplicity. Nothing is better than simplicity . . . nothing can make up for excess or lack of definiteness."

SUMMARY
SIX HINTS FOR BETTER STYLE

1. VARY SENTENCE LENGTH
2. ALWAYS AVOID BEGINNING SENTENCES WITH THE SUBJECT
3. USE DIFFERENT KINDS OF SENTENCES
4. AVOID PASSIVE VERBS
5. AVOID THE NOUN PLAGUE: USE WORKING VERBS
6. BE CONCISE AND CLEAR: MAKE YOUR WORDS SIMPLE AND CONCRETE. AVOID:
 - REDUNDACIES
 - LONGWINDED PREPOSITIONS
 - JARGON
 - POMPOUS VOCABULARY
 - CLICHES

XXI. ORGANIZING THE FACTS

Simply stated, a paragraph is a group of statements or assertions ordered in such a way as to describe a single idea or theme. If a person can write a good paragraph, then he or she can write a good report. Since a report is made up of a collection of themes, such as employment, family history and so on, it stands to reason that if the writer can organize his observations and thoughts within these discrete themes, then the organization of the whole report becomes easier.

Essentials of Paragraph Construction

Every paragraph is organized around a topic or idea. In most cases this idea will be expressed in the form of a topic sentence which will focus the paragraph's discussion. Such a sentence is often (but not always) placed at the beginning of the paragraph, in order to initiate the reader to the discussion which follows. However, a topic need not be actually expressed by a sentence within the paragraph. The important element is to fix upon a central idea or theme around which the paragraph will organize itself.

Once having decided on the topic or point to be made, a writer can then collect all the illustrations, arguments, details and quotes that will elaborate on the topic. Having then selected the most important of these bits of information, the writer must then order them in such a way as to provide a logical support for the central idea. The order of information can provide for:

- | | |
|-------------------|---|
| 1. A CHRONOLOGY | for example a historical account of an offender's personal history |
| 2. CAUSE → EFFECT | a description of the factors of home life and personal experience which has led to a particular problem |
| 3. EFFECT → CAUSE | same as above, except the progression of thought begins with the problem and works backward. The choice of direction depends upon whether the writer wishes to emphasize causes or effects. |

- | | |
|--------------------------------------|--|
| 4. A DESCRIPTION | in a theme such a 'drug habits', the narrative follows a series of descriptions by the offender and others to picture what occurs when the offender takes drugs. |
| 5. POINTS OF COMPARISON/
CONTRAST | describing likenesses and differences. This is commonly found in the summary of the PSR, where the offender's strengths are compared to his weaknesses. |

A paragraph need not be organized around only one of the classifications noted above, but can involve a combination of two or more. For example, a paragraph may first provide a chronology of a person's poor job record, and then use this information in a effect - cause analysis to give insight into a substandard work history:

"The offender has experienced an inconsistent work history. Since leaving school approximately three years ago, he has worked at a variety of labouring jobs. These jobs lasted only from several weeks to several months, and in each case the subject admits he quit or was fired because the jobs were 'too hard' for him. His last position was with Gerald Electronics, where he worked for three months as a shipper, before being dismissed last January. Mr. Paul Statler owner of General Electronics indicated that the offender was a good-natured individual who related well with others, but who had difficulty concentrating on his work, Mr. Statler stated that J. had to be constantly supervised on even the most simple tasks. This points to some basic skill deficiencies which . . ."	topic sentence
	chronology
	effect - cause

Progression of Thought: Connectors

Within each paragraph some logical progression of thought must take place. Each sentence, whether an example, quote or historical fact, should follow the one before, and introduce the one which follows. This progression helps the reader follow the point being made and to comprehend its development. The transition or linkage from one sentence to another is achieved through the use of connectors, transitional words or phrases which direct the reader to the next thought.

There are four ways in which these connections can be made:

1. Repetition of the key word, or restatement of the idea.
eg. His parents have been bothered by his attitude to authority.
This attitude can be described as . . .
2. "This, that, such":
". . .worked at a variety of labouring jobs. These jobs lasted only. . ."
3. Pronouns referring back to other pronouns or nouns
". . .he was fired because the jobs' were too hard for him. His last job was . . ."
4. The use of Transition words:
Depending on what the writer wishes to accomplish with the next sentence, there are a number of transition words which can be used to introduce the next idea:

to convey;

transition word:

Time:

then, before, after

Place:

beyond, next to

Result:

thus, hence, therefore, because

Contrast:

however, yet, nevertheless, but

Addition (to illustrate):

moreover, in addition, furthermore

Emphasis:

in fact, indeed, certainly

Practical as transitional terms may be, their excessive use (witnessed by pages cluttered with "however's" "moreovers" and "therefores"), can tend to block the natural flow of prose. A creative writer can avoid these easy (and sometimes unsightly) connectors by building the transition into the prose. This can be done by thinking ahead and trying to couch your thought such terms as to prepare the reader for the thought to come. The following statements contrast a transition using one of the more typical connectors, with one in which the reader is made to anticipate the connection.

"He feels that his desire for more independence had the effect of forcing him to leave home in May. As a result, within six months he found a job which would have been impossible had he . . ."

"He feels that his desire for more independence had the effect of forcing him to leave home in May for other things. Within six months he found a job which would . . ."

In the above statement "for other things" gives the reader an idea that a sequel to leaving home is at hand.

Length

There is no rule for the appropriate length of a paragraph . The writer's criteria for length should be satisfied with the question "Have I settled on some point and am I now ready to begin the next?"

Coherence: How Does It All Hang Together?

For new officers, developing a coherent PSR is achieved through practice and by learning from the assistance and supervision of others. It can sometimes be a helpful training exercise to have a colleague read the new officer's report, and by imagining himself in the place of the judge, test for coherence by answering the following questions:

1. Can you briefly outline the personal and family history? is the chronology consistent, or does it bounce back and forth through time?
2. Can you describe the key features of the subject? can you readily identify the problems, strengths. Can you provide a capsule sketch of the offender?
3. Can you (without reading the final section) easily formulate the major points, based on what you have just read? are the points upon which the conclusions made (e.g. positive motivation) readily apparent in the body of the report, or are they obscure or unstated?

Elements of Persuasion: Through Style & Assertion

The following are some of the hypotheses which have been shown in research to have persuasive effects on the reader.

<u>hypotheses</u>	<u>practice</u>
1. Reports which have superior reasoning or linkages between evidence and conclusions tend to be accepted more than those that don't. Statement specificity and the ability of the reader to verify it are key factors in the establishment of message credibility ¹ .	Is the evidence presented in a manner in which terms and words are verifiable, and clear? Is there sufficient evidence to warrant the conclusions?
2. Two-sided communications, are more likely to be accepted than those which are one-sided. Complex and compound sentences imply an exploration of the facts; a look at both sides of a situation, hence the presence of these sentences tend to be persuasive ² .	Are situations and problems represented through the use of a variety of sentence types? i.e. is there a good mix of simple, compound and complex sentence structures?
3. The use of evaluative judgements through adverbs is more prevalent among pre-sentence reports accepted than among those rejected.	Does the report contain active verbs and adverbs, or does it tend to be unassertive through the preponderance of passive verbs and low energy adverbs?
4. Pre-sentence reports which are accepted are of moderate length, whereas those of either very short, or very great length tend to be less influential.	Is the report clear and concise? To what degree are redundancies, wordiness and cumbersome phrases controlled for, or replaced?

¹See T. Gabor, C.H.S. Jayewardene, "The PSR as a Persuasive Communication", Canadian Journal of Criminology, Vol. 20, No. 1, Jan. 1978.

²Gabor and Jayewardene.

A Recommendation

The comments on prose and style in this guide offers only a brief day trip into the topic of effective exposition. The writer who wishes to make improvements in his style is strongly recommended to read some of the available books on the subject. In addition to becoming familiar with the use of a dictionary and thesaurus, there are a number of texts which the writer may find useful. These include:

Rudolph Flesch, The ABC of Style: A guide to Plain English, (New York: Harper & Row, 1964).

Jacques Barzun, Simple and Direct: A Rhetoric for Writers, (New York: Harper & Row, 1975).

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